SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER
----------X
FOX VARIAN,

Plaintiffs,

Index No. 61150/2023

-against-

KENNETH EINHORN, PhD, ET AL,

Defendants.
----------X
November 29, 2023
9:45 a.m. (Noticed)
Started: 10:04 a.m.

(Via Remote Videoconference)

EXAMINATION BEFORE TRIAL of FOX VARIAN, a Witness in the above-entitled action, taken before a shorthand reporter and Notary Public in and for the State of New York.

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A P P E A R A N C E S:

FIEDLER DEUTSCH
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(With Susan Thomas observing)

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For the Defendant

* * *

S T I P U L A T I O N S

IT IS HEREBY STIPULATED by and between the attorneys for the respective parties hereto, that:

All rights provided by the C.P.L.R. and Part 221 of the Uniform Rules for the Conduct of Depositions, including the right to object to any question except as to form, or to move to strike any testimony at this examination is reserved; and in addition, the failure to object to any question or to move to strike any testimony at this examination shall not be a bar or waiver to make such motion at, and is reserved to, the trial of this action.

This deposition may be sworn to by the Witness being examined before a Notary Public before whom this examination was begun, but the failure to do so or to return the original of this deposition to counsel, shall not be deemed as a waiver of the rights provided by rule 3116, C.P.L.R., and shall be controlled thereby.

The filing of the original of this deposition is waived.

IT IS FURTHER STIPULATED, a copy of this deposition shall be furnished to the attorney for the Witness being examined without charge.

F. Varian

THE STENOGRAPHER: Would you like to order a copy of today's transcript?

MS. RUOCCO: Yes.

THE STENOGRAPHER: The attorneys participating in this deposition acknowledge that I am not physically present in the deposition room and that I will be reporting this remotely. They further acknowledge that in lieu of an oath administered in person, I will administer the oath remotely under penalty of perjury. All Counsel stipulate and agree to allow the court reporter to swear in the Witness remotely regardless of the location of the Witness or any of the attorneys or parties present. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record.

MR. FIEDLER: Duane Fiedler, we consent.

F. Varian

MS. KATZ: Tracy Katz, we consent.

MS. RUOCCO: Valerie Ruocco, we consent.

THE STENOGRAPHER: Will the Witness kindly present his or her government-issued identification by holding it up to the camera for verification, or can his or her attorney attest to the identity of the Witness.

MR. FIEDLER: This is the Plaintiff/Witness.

THE STENOGRAPHER: Please raise your right hand.

(The Witness complied.)

THE STENOGRAPHER: Do you solemnly swear or affirm that the testimony you give today will be the truth, the whole truth, and nothing but the truth?

THE WITNESS: Yes.

THE STENOGRAPHER: Please state your full name for the record.

THE WITNESS: It's Fox Grayson Varian.

F. Varian

THE STENOGRAPHER: Please state your complete address for the record.

THE WITNESS: 42 Jordan Drive, J-O-R-D-A-N Drive, Patterson, New York, 112563.

MS. KATZ: Good morning. Can I call you Fox?

THE WITNESS: Sure.

MS. KATZ: Good morning, Fox. I am Tracy Katz from Furman Kornfeld. I represent Dr. Einhorn and Carmel in this action you brought.

I will ask you some questions today. If, at any time, you don't understand my question, please just let me know, and I will be more than happy to rephrase it.

Breaks for any reason, at all, are fine, and as long as there is no question pending, I'll be more than happy to take that break, okay?

THE WITNESS: Okay.

MS. KATZ: Try to make sure all of your responses are verbal, so the

stenographer can take it down. Nods and gestures will not be clear, so for the record, provide verbal answers to any question, okay?

THE WITNESS: Okay.

MS. KATZ: Also, people have the tendency to speak over each other in normal everyday conversations, so please just wait until I finish, so we can get a clear record, okay?

THE WITNESS: Yes.

EXAMINATION BY

MS. KATZ:

Q. Is Fox Grayson Varian your legal name at the present time?

A. Yes.

Q. When did you change it to that?

A. Shortly after I turned 18.

Q. When was that?

A. So May 16, 2021, the following week I changed it.

Q. You turned 18 in May of 2021?

A. Yes.

Q. What are your pronouns at the present time?

A. She/her. I am female, yeah.

Q. Okay. Would you prefer that I call you Fox or Ms. Varian?

A. Either way is fine.

Q. Where were you born?

A. Mount Kisco Hospital, in New York State, I believe.

Q. You were born in 2003?

A. Yes.

Q. Do you have a Social Security number?

(Whereupon, an off the record discussion was held.)

A. 3638.

Q. For how long have you lived at that address you gave?

A. Seven years, approximately.

Q. And where did you live before that?

A. 32 Rutland Drive in Patterson, New York.

Q. What is that?

A. 32 Rutland Drive in Patterson, New York.

Q. For how long did you live at 32 Rutland?

A. About four years.

Q. At the present time at the 42 address who do you reside with?

A. Mother and stepfather.
Q. Anybody else?
A. No.
Q. Your mother's name is?
A. Claire.
Q. Last name?
A. Deacon.
Q. C-L-A-I-R-E?
A. Yes.
Q. And your step father is?
A. Thomas Deacon.
Q. When you lived at the other address, did you live with mother and stepfather?
A. Yes.
Q. Do you have siblings?
A. No.
Q. Is Thomas your biological father?
A. No.
Q. Who would that be?
A. John Basile.
Q. John.
A. Mm-hmm.
Q. Yes?
A. Yes.

Q. B-A-S-I-L-L-E?

A. One L.

Q. Are you currently employed?

A. Yes.

Q. Doing what?

A. I work in an office, yeah, just, like, I don't know how to describe it, doing a lot of different stuff. I work with metadata and stuff.

Q. What is your title?

A. I don't know that I have one. It is a pretty small office. Maybe three of us are there, literally there.

Q. What is the name company?

A. Global Media International or something. It is on my paycheck. Global Media Online Marketing.

Q. Is that full time?

A. Part-time, two days per week.

Q. Which days?

A. Tuesday and Wednesday, usually.

Q. Nine to five?

A. No, six hours.

Q. For how long have you been there?

A. About a month.

Q. Generally speaking, describe your duties and

responsibilities there.

A. I transfer metadata, which is, like, to describe it, it is weird. Like, basically we take old movies that don't have like copyrights, and upload them to various commercial platforms and stuff. So I, like, take the information, and I put it, you know, and organize it, and, like, help send it out to distributors.

Q. Currently are you in school?

A. No.

Q. What do you do on other days not working generally speaking?

A. I am home. I try to take care of the house. And we have two dogs and do that. Take care of them and stuff.

Q. Do you do groceries shopping?

A. I don't drive, but yeah, I guess I do go and shop.

Q. Do you do other household chores, as well?

A. Yes.

Q. Are you looking for a full time job?

A. Not at the present time.

Q. Is there some reason why not?

A. Yeah, I get burnt out very easily. And so I

struggle to, like, I don't know function, I guess is the word.

Q. When you say burn out, is this anxiety?

A. Anxiety. I get social anxiety. And it is a major part of that. So I am prone to getting very burnt out.

Q. Have you always struggled with autism and social anxiety?

A. Yes.

Q. For as long as you can remember?

A. Yeah.

Q. At the present time do you treat with a psychologist or psychiatrist or mental health providers?

A. Yes, I am in therapy.

Q. Who do you treat with?

A. Melissa Marino.

Q. Is she a psychiatrist, something else?

A. I know a licensed therapist. I don't think so. Not a psychologist or psychiatrist. I believe she is just a therapist.

Q. For how long have you treated with her?

A. Through March of 2022 to now.

Q. Where is she located?

A. Dutchess, and we meet with Zoom.

Q. Is she part of a group practice?

A. I don't think so.

Q. Other than Melissa Marino, do you currently treat with anybody else for mental health or emotional issues?

A. No.

Q. Are you on any medications currently as you sit here today?

A. No.

Q. None whatsoever?

A. Correct.

Q. Have you ever had been married?

A. No.

Q. Do you have any Chin?

A. No.

Q. I have to ask these questions, and they are not intended to offend. Have you ever been convicted of a crime?

A. No.

Q. Have you ever declared bankruptcy?

A. No.

Q. Prior to today have you ever testified under oath before?

A. No.

Q. Your mother, and your father John Basile, are they divorced?

A. They were never married.

Q. Did you have to testify for any custody disputes between them?

A. I did not.

Q. Have you ever been involved in a lawsuit prior to this one?

A. No.

Q. Do you know if your mother has ever been involved in a lawsuit?

A. I don't believe so.

Q. Do you have any hobbies currently?

A. I suppose I act. So I was in a student film and so I write, as well.

Q. Anything else?

A. Not really.

Q. Are you currently acting in any project or films or things of that nature?

A. No.

Q. Do you have an agent?

A. No.

Q. Do you have any diaries or journals you

maintained while you were treating with Dr. Einhorn, at all?

A. No.

Q. Have you ever kept a diary or journal?

A. Yeah, not when I was treating with him.

Q. When did you keep the diary or journal?

A. I started rather recently, and I think I did when I was a kid, but I stopped at some point.

Q. So the one you had recently, when was that started?

A. Probably like May.

Q. Of 2023?

A. Yeah.

Q. Did you ever keep diary at any time from 2017 up to 2021?

A. No, nothing.

Q. Do you have a high school diploma?

A. No.

Q. Do you have a GED?

A. No.

Q. Did you attend college?

A. No.

Q. Did you ever apply?

A. No.

Q. Now, did you ever fill out any college applications?

A. No.

Q. Did you ever write a college essay?

A. No.

Q. If I told you the records reflects that in October of 2020, you had told Dr. Einhorn you mostly completed an application for college, would that refresh your recollection?

A. No, because that's inaccurate. I tried to. I wanted to apply to SUNY. So I tried to write an essay, a couple of paragraphs but I did not submit it, because it was just -- it was something that I was going to submit, and I didn't like what I had written, so I scrapped it. And because I was home schooled, I had tried to write, like, high school transcripts to get that, to get to that, and I never really completed an application. So yeah, I wanted to, if that is what you were referring to.

Q. You started the process?

A. Tried, yeah.

Q. So, in fact, you started writing the college essay?

A. Yes.

Q. How many paragraphs did you get through at that time?

A. I don't remember. Maybe, like, one-and-a-half. So it was not really much of an essay.

Q. What was it about?

A. I tried a couple of topics, and settled on being transgender. Probably why I was not able to finish it.

Q. Do you have copies of any of those college essays?

A. No. So I think I scrapped it, because my heart was not in it, I guess.

Q. When you wrote the college essays was it on the computer, handwritten; something else?

A. Google Docs, I think.

Q. How do you know you no longer have copies of them?

A. I remember deleting it, because I just really hated what I had written, then and I didn't -- I don't know.

Q. When did you delete them?

A. Shortly after they were written. Then a couple of months later I deleted it, because -- I don't

know -- so it wasn't really worth looking at, I felt like.

Q. Do you remember the sum and substance of the college essays on being transgender?

A. Um.... I am trying to remember. Um.... not really. I think just a generic sort of, like, the first paragraph was kind of, like, introducing sort of, like, the topic. So it wasn't really, like, I don't know, I guess I couldn't get anymore personal than that, I found.

Q. Have you ever written any other -- anything else on being transgender?

A. No.

Q. Any personal essays?

A. Not really, no.

Q. If I told you that Dr. Einhorn notes that your college essay draft was on the importance of undergoing top surgery, and your life, would that refresh your recollection of the details of the essay?

A. No, I think I maybe had the topic, and played around with it, but again, I found I couldn't get anymore personal, because, I mean, now knowing I am not transgender, I was thinking I was like, like, to

delve, so, like, to delve into the topic more personally than that, so I don't know, like, so, just, like, I couldn't articulate well, I guess, in the essays.

MS. KATZ: Move to strike the portions of the answer that were not responsive to the question.

MR. FIEDLER: Objection. Fox, she always does that. Forget it. So just ignore it.

MS. KATZ: Objection.

THE WITNESS: Okay.

MR. FIEDLER: I think when lawyers say that it usually means it was a good answer.

MS. KATZ: Objection.

EXAMINATION BY

MS. KATZ:

Q. Did you ever show Dr. Einhorn a copy of your college essay?

A. I don't think so.

Q. If I told you his records indicate that you showed him a first draft of your essay, does that refresh your recollection?

A. I don't remember doing that.

Q. Okay. Stepping back now, talking about prior to meeting Dr. Einhorn, had you ever seen a psychologist or psychiatrist or a mental health provider?

A. Yes, I was in therapy for several years.

Q. Who was that with?

A. Christy Gotto.

Q. Spell that.

A. C-H-R-I-S-T-Y; G-O-T-T-O.

Q. Where was she located?

A. Here in Patterson.

Q. Is she a psychiatrist, something else?

A. A licensed therapist.

Q. A licensed social worker?

A. I don't remember. I was pretty young.

Q. When did you first start treating with her?

A. Probably about age seven or eight.

Q. You treated with her until how old?

A. Shortly before I turned 13.

Q. At the time -- withdrawn.

How did you come to treat with her, referring to Christy Gotto?

A. I have no idea. I was very young.

Q. Why did you first start treating with her?
A. I saw a therapist for a while before that, and, like, my parents were in a huge custody battle, so I ended up getting put in therapy after being difficult in school.
Q. So who was first therapist you ever saw?
A. Kate Route.
Q. Spell it?
A. K-a-t-e, R-o-u-t-e, maybe.
Q. Kate Route?
A. Right.
Q. Where was she located?
A. In Carmel, New York.
Q. Was she with some group?
A. I don't think so, just from my memory of the office, so, but I don't remember.
Q. Was Kate Route a psychiatrist or psychologist, something else?
A. I don't know.
Q. For how long did you treat with her?
A. I don't remember.
Q. More than a year?
A. About a year, I will say. I'm not sure. I'm not sure.

Q. Why did you stop there?
A. She had something going on in her life, and had stopped practicing entirely, is how I remember it at the time.
Q. When you treated with Kate Route, was your name Isabella Basile?
A. Yes.
Q. Is that your birth name?
A. Yeah.
Q. Was there a middle name?
A. Yeah.
Q. What was it?
A. Grace.
Q. G-R-A-C-E?
A. Mm-hmm.
Q. Yes?
A. Yes.
Q. Okay.
A. Sorry.
Q. That's okay. So then, other than Isabella and Fox, have you ever been known by any other names other than the ones that you previously stated on the record?
A. No, not legally.

Q. When you treated with Kate Route , can you tell me, if you remember, what you spoke about with her and what issues you were dealing with at the time with her?

A. I was upset about my parents splitting up, and the custody battle going on. So I guess I talked about that main issue I was dealing with, with her. And probably that's it. Because that's the only, like, thing that was going on in my life.

Q. Did you also -- withdrawn.

Did Kate Route refer you to any psychologists for medical treatment or medicine?

A. No, I was not referred for any medication when I was young.

Q. Did Kate Route also help you with anxiety and autism?

A. Yes, the anxiety was a part of it. I don't remember how I came to be diagnosed with ADHD. I was not diagnosed with autism until age 14. So kind of it was in the background, and nobody really caught it. I didn't have any super stereotypical signs.

Q. How old were you when you treated with Kate Route?

A. I was like seven to eight.

Q. At the time you already had been diagnosed with ADHD?

A. I don't remember when it came into play. So I don't remember. There was all the psychological testing done as part of the custody thing in the court. But so yeah. I don't remember.

Q. When you underwent psychological tests as part of the custody hearing, were you given any psychological diagnoses?

A. I think that was where I got the ADHD diagnosis from, and I think it was atypical anxiety, they called it, because I would bark like a dog, instead of just, like, crying, I guess, and I believe those were the terms.

Q. Right. After Kate Route who was the next mental healthy provider you treated with?

A. Christy Gotto.

Q. For six years?

A. Yeah, I guess.

Q. What kind of -- withdrawn.

Did Christy Gotto diagnose you with any emotional or psychological issues?

A. I believe, depression was one.

Q. Anything else?

A. No. I think that was it.

Q. When did Christy Gotto do in terms of treating you?

A. CBT. So a lot of that cognitive behavioral therapy. Adjust, like, managing and coping mechanisms, and things of that nature. I did group therapy with a group of other girls who were around my age.

Q. When did you do the group therapy?

A. I don't remember. I know it kind of ended because I stopped seeing her. So it was, like, a couple of years after I started seeing her. So then it was somewhere in the middle of my treatment with her.

Q. Okay. Where did you do the group therapy?

A. In her office, which was -- it was like an accountant's office that she rented from him, I guess.

Q. Did Christy Gotto ever refer you to any psychiatrists for medical treatment?

A. Not any specific one. She referred me to Carmel, when she felt like I was too -- my issues were beyond her, I guess.

Q. When was that?

A. I think shortly before I turned 13. So April, I believe. And then I had psychological testing. I don't remember the woman's name. Then she referred me to Dr. Einhorn.

Q. Did Christy Gotto ever recommend in the six years, refer you to a psychiatrist for treatment with medication?

A. I know medication was brought up, but she never really pushed it, though, and I did not really want to do it. And my mom was hesitant. And she did not really push it.

Q. Did Christy Gotto bring up potentially taking medication?

A. Just a suggestion and not super pushy with medication or anything.

Q. At the time she brought up the possibility of medication, what, if anything, was your response then?

A. I don't remember. I remember I wasn't really comfortable with it, and I did not want to do it. I wanted to, like, I don't know, find another way, I guess. Um.... so, yeah. That's it. That's it. I was pretty young.

Q. Did your mother have input into that?

A. She was hesitant. I feel like if I had wanted to try it, she would have been perfectly open to, like, let me pursue it, if I felt like it was a good option.

Q. At the time that you were treating with Christy Gotto did you have a pediatrician?

A. Yes.

Q. Who was that?

A. Dr. Baskind. Riverside pediatricians. They changed their name now.

Q. Spell that.

A. B-A-S-K-I-N-D.

Q. First name?

A. I don't remember. Maybe Lawrence.

Q. How long did you treat at Riverside?

A. I don't remember. From when I saw a kid, to age 12, and then after, they stopped taking my insurance.

Q. After age 12, where did you treat next with respect to a pediatrician?

A. Maybe age 14 or 15 actually. So, um.... then I think Bambini Pediatricians over in Poughkeepsie, New York.

Q. Other than Dr. Baskind and Riverside and Bambini Pediatricians, were there other pediatricians?

A. Not for a GP.

Q. When you were treating with Dr. Baskind were you diagnosed with any medical conditions?

A. No, I don't think so.

Q. Did you go to Dr. Baskind for yearly physicals?

A. Yeah.

Q. Did you see him for anything else?

A. For being sick, so a period of time, it was a mono diagnosis, at some point, and other than things of that nature so, no.

Q. Do you remember when you were diagnosed with mono?

A. Probably summer of 2017.

Q. Okay.

A. Age 14 or so.

Q. Were you put on medication?

A. No. He said at some point lymph nodes were swollen. I don't remember. I don't remember the reason. It's a while ago.

Q. Have you ever taken antibiotics?

A. Yeah.

Q. When was the first time?

A. As a kid, probably.

Q. Had Dr. Baskind or Bambini Pediatrics ever prescribed antibiotics as needed, do you recall?

A. Yeah.

Q. Did you receive your childhood vaccinations with Dr. Baskind or Bambini Pediatrics?

A. No.

Q. Have you ever had your childhood vaccinations?

A. No.

Q. Were you vaccinated for polio?

A. No.

Q. Rubella?

A. I don't think so. I don't know. I never had any childhood vaccinations.

Q. Or COVID-19?

A. No.

Q. So as far as you know, you never have been vaccinated for anything?

A. No.

Q. Is there some reason why not?

A. Yeah.

Q. What's that?

A. Religious reasons.

F. Varian

Q. What are your religious reasons?

A. Is this relevant?

Q. Yes, it is and it goes to past medical care and treatment.

A. Yeah.

MR. FIEDLER: The answer is, it is not relevant. She is allowed to ask these questions with no relevance. Then we object to them at trial.

THE WITNESS: Okay.

MS. KATZ: Objection. It may lead to discoverable evidence. So I can ask what I like, and I expect answers. And now, I am going to objection to your continued editorializing in your objections.

MR. FIEDLER: You're objecting to my objections?

MS. KATZ: Yeah. Yeah, I am. Now you can answer.

THE WITNESS: So, yeah um.... I don't know. I know my mother and my grandfather were opposed to getting vaccinations on religious grounds. I

don't fully remember exactly how it was put to me when I was younger, but just, like, that -- I don't know, like, not tainting the body with, like foreign substances that are -- with, like, I don't know -- potentially inorganic things or something.

EXAMINATION BY

MS. KATZ:

Q. Did this family philosophy of not intaking foreign substances relate to anything else, other than the vaccinations?

A. No, and I know that there were discussions on this a little bit on how this has affected me. But my mother felt that it was he important for my mental health, and that this was more important, and that I she wanted to always do the loving thing, and, you know, allow me that.

Q. Meaning that she was against you getting a mastectomy on religious grounds?

A. Um.... I was -- there are a lot of reasons. That was kind of talked about. It kind of fell by the wayside, because, um.... she said all of this was going too fast, and this was the angle she tried

to, like, use, that I was going too fast with all of this, and that I had never identified that way when I was younger, and that this was all new.

Q. Was part of the discussions with your mother about your mastectomy, did part of her objection have to do with not tainting the body with foreign substances or something else -- withdrawn.

You had mentioned that part of the discussion with your mother about a mastectomy, had to do with religious convictions?

A. Yeah, parts.

Q. Explain that to me.

A. Um.... I don't really know. She kind of relented on that very quickly. So she was just trying to use a different. I don't know. She only ever said it to me. She did not want to, like, feel, like, whatever. Sorry. Um....

MR. FIEDLER: That's okay. I think you answered.

THE WITNESS: Thank you.

EXAMINATION BY

MS. KATZ:

Q. Okay. Besides the mastectomy and vaccinations, were there any other medical interventions or

medications that religious convictions had applied to?

A. Not really. I think it was because I know my grandfather never believed in injections, and I think was his main thing that he talked about.

Q. So he was opposed to injections?

A. Yes.

Q. Was there an opposition to receiving hormone therapy based on religious grounds?

A. It wasn't just religious. I didn't really want hormone therapy, because I didn't really subscribe to that line of thought. So really, I just didn't want it. And Dr. Einhorn was more persistent that I should have it, then, like I -- like, more than I wanted it, it seemed like.

Q. Okay. You discussed undergoing hormone therapy with Dr. Einhorn?

A. Yes.

Q. And when you had those discussions, you told him that you did not want hormone therapy ; is that correct?

A. Yeah, I would say some of the changes I wanted to, you know, like wanting to have a more masculine jaw line, or whatever, but, um.... So, like, I

ultimately felt like the like cons outweighed the pros, because I did not like a lot of the side effects I could have when I was reading about it, but he seemed kind of adamant that it would help me in some way, more than I felt that it would help me.

Q. Even though Dr. Einhorn felt like you should have hormone therapy, you chose not to undergo the hormone therapy; is that correct?

A. Correct.

Q. Okay. Now, when you stated that you did not like the side effects with respect to the proposed hormone therapy, could tell me what those were.

A. Just like, the um.... It was the clitoral growth. So I was not a fan of the idea of that, at all. Um.... There was the increased sex drive, which I was not comfortable with. And he frequently would, like, remind me that I have to be comfortable with it. And I did not need reminding. I didn't want it. I did not want it.

And he kept saying to me:

"Well, you will have to get comfortable with that."

And I would be, like:

"I am not comfortable with it."

So I was not really sure, but maybe sometimes maybe I would feel, like, sometimes I wanted to take it, but ultimately I know that I am not comfortable with certain things, so I am not going to take it.

But it was persistently brought up by him, and I was not -- so it was brought up, sometimes by me, sometimes by him, but ultimately not comfortable with the side effects of the testosterone.

And so another part of that was, that when your voice drops, that is a big side effect. And I was taking singing lessons, and singing in musicals and things of that nature. So you have to get used to, like, a different vocal range, where your voice will drop low. That was terrifying to me. I did not want to retrain my voice. Also, I was not out to my singing coach.

Q. Do you know when you were diagnosed with ADHD and anxiety?

A. During the custody.

Q. So this was during the custody battle; is that correct?

A. Yes.

Q. Okay. And in that time frame you treated with Christy Gotto?

A. Yes.

Q. For those issues?

A. Yeah. And I should have mentioned that I also had eating issues starting with the Christy Gotto therapy.

Q. This was an eating disorder?

A. Yeah, and it lasted for quite a while. That was part of the reason that she had referred me out. I needed another referral, since she felt that she was not able to help me in the way I needed. She also referred me to the Carmel school.

MS. KATZ: Off the record.

(Whereupon, a conversation was held off the record.)

(Whereupon, a short break was taken.)

MS. KATZ: Paul, could you please read back the last question and answer for me.

(Whereupon, the testimony was read back by the stenographer.)

MS. KATZ: Thank you.

EXAMINATION BY

MS. KATZ:

F. Varian

Q. Now, can you tell me when your eating issues started?

A. I was about 12.

Q. Okay.

A. So I was restricting.

(Technical difficulties.)

(Whereupon, an off the record discussion was held.)

(Whereupon, a short break was taken.)

(10:56 to 11:09 a.m.)

EXAMINATION BY

MS. KATZ:

Q. Now Fox, you mentioned these religious reasons that your mom and grandfather did not want to get vaccinations. What religion is this?

A. My grandfather identified as a 7th Day Adventist briefly. So I'm not sure. I feel like that is one of the leftover sort of -- it's kind of nondenominational and very personal. And my grandfather has had, like, a lot of different, like, religions in his life, I guess. He followed Buddhism, so it was just one belief he held that was left over from that period of time.

Q. Your mother; what religion is she?
A. I don't know what she identifies as. So it is one of those things left over from my grandfather's influence.
Q. Does your mother go to a church?
A. No, not so much.
Q. Has she ever?
A. Sometimes she went to church and took us. So I was little. And it was never a super big part of it for us.
Q. When you went to church, which church was that you went to?
A. I don't remember. I was too young.
Q. Catholic, something else?
A. Someone she cared for when she was a home care nurse, we all went with that guy sometimes.
Q. So you don't know which denomination that church was?
A. I don't remember.
Q. Okay. Do you identify as any particular religion.
A. No, not personally, no.
Q. Okay. Back now, had you started battling anorexia at age 12?

A. Yes.

Q. Do you have any sort of memory where something spurred that on; if you know?

A. Um.... I believe it was kind of, like, puberty in full swing. I was very uncomfortable with that, just like a lot of young tweens and teenagers are. And so that was my way of getting control back, yeah, so that where I was -- I guess it was the catalyst for it.

Q. Had you already had a period upon the onset of this anorexia?

A. I started to have some issues with the onset of menses. Then it did really kick off once I had started to menstruate.

Q. Okay. When you say really kick off, could you explain what happened?

A. I think I just really started to, like, I am not just, like, uncomfortable getting seconds and wanting to always lose weight, and I needed to, like, make this, like, I don't know get whatever I can to control it. So I was not eating very much at all, I believe. By that point I had been suspended from school and left that school um.... so I was home alone a lot. And so I was just having a lot of

difficulty making sure I was exercising more than I was eating, and stuff like that.

Q. Okay. What school were you in at that time?

A. Long View School, Brewster, New York, democratic school.

Q. Which years did you attend?

A. Age 7 first, then I left with my difficulties. And my father wanted me in public school. We tried that. That did not work. I was then put in a special ed school. Then Long View again, age eleven to twelve and a half or so, and got kicked out, and ended up going back at age 14, and never finished the year there.

Q. So you went to Long View for elementary.

A. Yes.

Q. K through second?

A. I don't remember.

Q. Okay.

A. I don't remember. It is too long ago. The school shut down, planning to merge with Long View and it did not happen.

Q. So at around age 7 you left Long View to public school?

A. Yes, I was pulled out.

Q. Is that your dad who pulled you out?
A. Yes, he insisted on it.
Q. Why did he insist you be pulled out?
A. It was not really a school, he felt, and I needed to be around normal kids, and I don't know his reasoning, really.
Q. Where did you go to public school?
A. Brewster JFK district.
Q. For approximately how long was JFK?
A. Second to third. And I then stopped had to stop. I was out of control, I guess.
Q. Explain that. What do you mean you were out of control?
A. I would do anything I could to avoid going. I would not go into class. I would hide in the hallway, that's really, like by the psychologist office, a hiding spot, where I was hiding in the corner in the dark. I did not want to go in. I was having a lot of like difficulties adjusting socially and academically, from, you know, a class of, you know, me and my sister's friend and little brother hid and would not go into this class of 20 plus.
THE STENOGRAPHER: Can you please slow down? You're speaking very fast.

F. Varian

THE WITNESS: So I was really struggling with that, and I would, like, hide. And I remember couple of times they had to clear the room, because I was like hiding under a desk and they made everyone leave.

EXAMINATION BY

MS. KATZ:

Q. Were you diagnosed with mental conditions or received diagnoses at that time?

A. ADHD and anxiety diagnoses. So as part of the court thing or I don't know. It was all at the same time.

Q. After JFK, third grade, where did you go next to school?

A. I went to a library for different Sundays. I was put on a wait list to Green Chimneys and I ended up there. So from age 8 to almost age 11 at that time.

Q. Okay.

A. Then I went to Long View.

Q. What was Green Chimneys?

A. A therapeutic program. And that was not my experience there. I was severely traumatized there

by a lot of different things, by both students and staff members and experienced very inappropriate behavior, what I consider to be physical abuse there, so, yeah.

Q. What kind of abuse was that?

A. For instance, I had severe, like, social anxiety. And part of that was, I was terrified to read out loud in class. That was noted on my IP. One day the teacher called on me. And I just stared at the paper. And I was staring at her. And I couldn't get any sound out.

Then, the TA grabbed me by the back of my jacket, and pulled me onto floor. I was on the floor. And so I was pulled out of my seat, onto the floor, then dragging me out of the classroom, telling me while taking me to the quiet room that I was horribly disrespectful and so inappropriate, and that I owed the teacher an apology for being so disrespectful. And this is supposed to be a special program, and here am I, a child with anxiety, and they are treating them like that publicly, pressuring them, pulling them, dragging them, and talking like that to them.

MR. FIEDLER: Which school was

this now?

THE WITNESS: Green Chimneys.

MR. FIEDLER: You said, Green Chimneys?

THE WITNESS: Yeah.

MR. FIEDLER: Thank you.

THE WITNESS: Yeah, so, yeah, stuff like that. And it was called the quiet room. I don't know why. To where, like, I believe they were ex marines. It had come up at some point. And they certainly looked it. Tall and imposing. And they drag me around. So I wouldn't get out of the car. I didn't want to get out of the car. They put me on the ground, and held me on the ground while I was crying until, I guess, I stopped crying. And I remember it was cold out, and I remember my shirt was ruined. And it was caked in mud. Pretty much the entire day I was freaking out there and was getting dragged around the school like that.

After calming down enough to go to

class, I went. And I remember one of those guys repeatedly called me a spoiled brat, because I did not want to go to class. Once, to the point where I cried. He then laughed at me like it was funny. So at this place, it was stuff like that.

EXAMINATION BY

MS. KATZ:

Q. Okay. Then after your time at Green Chimneys, your anorexia started?

A. Long View. Where I got the problems with eating stuff.

Q. Long View was age 12 and a half; is that correct?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. So after you separated from Long View age 12 and a half, you had told me that you went back at the age of 14, from 2017 to 2018?

A. Yes.

Q. Did you attended school in the interim?

A. Um....

Q. Or home school?

A. In a program in Mahopac. It was not going well, and so I left then within two weeks at that time.

Q. So besides that, you were home schooled for a year and a half approximately?

A. Yeah.

Q. Who did the home schooling?

A. My mom, with Kahn.

Q. So then back to Long View fall of 2017; is that correct?

A. Correct.

Q. During the 2017 and 2018 school year, what year were you in?

A. (No verbal response.)

Q. Freshman, sophomore, something else?

A. No grades, but it was as a freshman in high school.

Q. What do you mean?

A. Grades were not given technically. But like, they really did not mean very much.

Q. Okay.

A. Or certainly not like a public school.

Q. Were you in class with other kids of your own

age?

A. Yeah, generally speaking.

Q. And in the fall semester of 2017 you were 14 years old?

A. Yes.

Q. How did your fall semester go?

MR. FIEDLER: Where? Where is this?

THE WITNESS: Long View. I was pretty good until the end there, where I had a lot of difficulties with the history teacher, a director of the school.

He just was very 'my way or the highway' with a lot things. And I had a lot of anxiety.

And for instance, he really kind of pressured me that I should, like, would be able to give a speech in front of the class. I could not do it, and I had problems with him there.

EXAMINATION BY

MS. KATZ:

Q. The director was Mark Jacobs?

A. Yes.

MR. FIEDLER: Off the record.

(Whereupon, a conversation was held off the record.)

(11:27 to 11:28 a.m.)

EXAMINATION BY

MS. KATZ:

Q. You returned to Long View for spring semester 2018; is that correct?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. During the spring semester of 2018 you still treated with Christy Gotto?

A. No.

Q. My mistake. Let me clear that up.

A. Sure.

Q. Okay. Now, in April of 2017 is Christy Gotto referred you to Carmel; is that correct?

A. Yes, a female.

Q. In April of 2017 you were still being home schooled; is that correct?

A. Yes.

Q. You mentioned that when you first went to

Carmel in approximately spring of 2017, you were evaluated by a female provider there?

A. Yes.

Q. For psychologist testing?

A. Yes.

Q. Lauren?

A. Yes, Baird. Or something.

Q. Okay.

A. So I don't remember.

Q. You had testing done?

A. Yes.

Q. What did that consist of?

A. It was pretty standard. I don't know. I believe -- no. I don't remember. I don't remember. I remember results indicated very high scores for social anxieties and ADHD as was already diagnosed. And autism.

Q. Was that the first time you had been diagnosed with autism?

A. Yes. You I when I was home schooling and had Christy Gotto, for the mental health thing, I went on Kahn Academy videos, and I felt like I fit a lot of criteria. I brought it up to her. She was, like:

"I don't think you're autistic."

She was only concerned about the schooling situation.

EXAMINATION BY

MS. KATZ:

Q. When did you see the video on Khan Academy?

A. During Christy Gotto.

Q. How to spell it?

A. (No verbal response.)

Q. Khan?

A. Yeah, K-H-A-N.

Q. Is it on their site?

A. Yes, their website with resources for all grades.

Q. And so when you saw that video, it was on autism?

A. Yes, like a unit in the health section about mental health. And that was something where I looked it up. It was uncanny. I brought that up to her.

Q. What kinds of things did you relate to on the videos?

A. Like feeling very disconnected from your peers, feeling like -- I don't know, like, being, like,

very fixated on subjects. For me it was dogs. I can tell you anything about dogs. When I was a kid. That's a big special interest for me. At that time and now. And, so, like social, like academic difficulties I had both. Not always understanding social cues, as well. And sometimes just like feeling like you are missing something in a situation.

Q. Okay. So then the first time that you were officially diagnosed with autism was at Carmel; is that correct?

A. Correct.

Q. Now, how many times did you see Lauren?

A. Maybe twice.

Q. Okay.

A. For testing sessions.

Q. Do you remember anything else she did other than that?

A. No.

Q. Lauren referred you to Dr. Einhorn?

A. Yes.

MR. FIEDLER: And a last name? Do you know?

THE WITNESS: Something with a B.

I don't remember.

MR. FIEDLER: Where was she located?

THE WITNESS: Carmel.

MS. KATZ: Carmel.

EXAMINATION BY

MS. KATZ:

Q. When Christy Gotto referred you to Carmel, it followed diagnosis of the eating disorder?

A. Yeah, she felt it was clearly a catalyst for that.

Q. Now Fox, do you recall when you first met Dr. Einhorn?

A. Yes.

Q. When was that?

A. June of 2017.

Q. You were 14?

A. Yes.

Q. At that time you were being home schooled?

A. Correct.

Q. You did not go back to Long View?

A. Correct, but I was suspended. So I needed a readmit meeting in June.

Q. Okay.

A. And I got readmitted.
Q. Okay.
A. Fall.
Q. In 2017?
A. Mm-hmm.
Q. Yes?
A. Yes.
Q. What do you recall about your first meeting with Dr. Einhorn?
A. I remember that he had, like, basically said, yeah, I do think you are autistic. And I don't remember much else. It was the eating issues and the anxiety and the history of like any psychologist does, just like I just did on any first meeting. And also the eating issues main thing when I was readmitted.
Q. Have you ever had hospitalized for anorexia?
A. No.
Q. Have you ever been admitted to any in-patient psychological setting or institution?
A. No.
Q. Do you remember what Dr. Einhorn recommended at the first meeting?
A. No, I don't remember. The subject of me

getting into karate was broached. To give me a sense of control, and just, like, whatever. Which I did follow up and I did that for a while.

Q. Was karate something of interest to you?

A. Not really, but he said it was good for autism and that helped me with that issue, and for a sense of purpose.

Q. Karate helped you with all of that?

A. I guess, yes.

Q. How long did you do karate?

A. Up until the top surgery. And stopped. And then it was COVID-19 pandemic. Then I returned later.

Q. Okay.

A. Last year.

Q. Okay.

A. Then I stopped.

Q. Why did you stop this time?

A. I'm not sure one hundred percent. I know that so, yeah, I think part of it is that I realized that I made a huge mistake, and I started to detransition. And stopped exercising. And I didn't know how I was -- I had struggled to come out to the karate teacher for several months. This was after

coming out at school.

Q. Okay.

A. So I didn't tell her until May of that year. And I didn't know how you explain that. So I was going back on that, and yeah, and so that was it. I think I found that being in my body, karate is good for grounding. And now, I had found it really unbearable.

Q. You came out to the karate teacher in May of that year?

A. Yeah.

Q. Which year?

A. 2019, when I came out trans.

Q. You went back after the COVID-19 pandemic?

A. Yes.

Q. To that same karate teacher?

A. Yes.

Q. The first meeting with Dr. Einhorn, was your mother present?

A. Yes.

Q. Do you remember anything she said during the first visit?

A. No. Off the top of my head, I remember Dr. Einhorn he was not -- I was wearing combat

boots. And he decided that meant I wanted to sort of project this sort of, like, don't mess with me sort of protective, you know, I don't know, like, maybe it's not the word to use but, so, like, facade but kind of. And I just think it is kind of ironic that he would deduce that from the boots and relate that to coming out as transgendered and using different pronouns and using a male name and presenting as male.

MS. KATZ: Move to strike the nonresponsive portions of the answer.

EXAMINATION BY

MS. KATZ:

Q. So do you remember this conversation upon your first meeting with Dr. Einhorn, about the combat boots?

A. Yeah.

Q. Do you remember anything else about that conversation?

MR. FIEDLER: What do you mean? You just got finished with your whole move to strike motion. Now, you are going to ask about anything else? What are you talking about? What's your

question?

MS. KATZ: About that conversation.

MR. FIEDLER: Now you want her to speak about matters beyond what you moved to strike? Or -- what? Say it again? Which one? Pick one.

EXAMINATION BY
MS. KATZ:

Q. Other than what you told us, do you remember anything else about that conversation?

MR. FIEDLER: Objection.

To the form of the question.

You can answer.

THE WITNESS: Yeah, so it was the boots. So other than that what I already said about the combat boots, and yeah, his deduction.

MR. FIEDLER: Off the record.

(Whereupon, an off the record discussion was held.)

EXAMINATION BY
MS. KATZ:

Q. Did Dr. Einhorn talk to you about his methods

of treatment and philosophy?

A. I do remember something about, like, not really being like super pro-medication, like, only if I really needed it. He mentioned schizophrenia. He said that, that needs medication. Other than that, it was kind of up to me do that.

Q. Do you remember him talking about how he was going to provide therapy for you?

A. No.

Q. Or what his treatment methods were?

A. No, I don't remember any outlines, no.

Q. When you treated with Dr. Einhorn over of the summer of 2017, during that period of time, do you remember, over that summer, do you remember what kinds of things you would be talking to Dr. Einhorn about?

A. No. Off the top of my head, no.

Q. Okay.

A. I don't remember much from that summer.

Q. Okay.

A. So I don't remember.

Q. Do you recall telling him that had you some trauma from an attack from a family dog?

A. No. It was not a family dog. So it was

somebody's pitbull got in the yard and had attacked my dog.

Q. So this was an attack on your dog?

A. Yes.

Q. Do you remember talking to Dr. Einhorn about some child protective services involvement?

A. Probably.

Q. What that happened with that?

A. During the custody battle. I was a kid. Somebody called CPS, but probably it was my father. So, yeah I don't know why.

Q. Were either of your parents abusive?

A. I would characterize my father as neglectful, but not outright abusive.

Q. Were you ever taken into custody by Child Protective Services?

A. No.

Q. When you were seeing Dr. Einhorn in the summer of 2017, was your mother in the sessions with you, or did she wait outside or something else?

A. I think she came in for parts, so for parts of the session at some point. She did not stay the entire time. Maybe at the beginning. So half and half.

Q. During your discussions with Dr. Einhorn, was there any anxiety or feelings discussed about going back to school in the fall of 2017?

A. I don't remember.

Q. How were you doing academically at that time?

A. Pretty okay.

Q. In the fall of 2017?

A. Pretty okay. I liked certain subjects. A big bone of contention was gym class due to Jacobs being there, and those problems.

Q. You continued to treat with Dr. Einhorn through the fall semester of 2017; is that correct?

A. Correct.

Q. Do you remember anything you two had worked on during that period of time?

A. I believe issues with the teacher Mark Jacobs. And so problems with him. And I don't remember anything else.

Q. Okay.

A. So I don't remember anything else.

Q. Were you still having eating disorder issues in the fall of 2017?

A. Yes, but I was doing somewhat better, and I certainly was eating more.

Q. In the fall of 2017 did you have any friends at Long View?

A. A couple.

Q. Can you tell me their names?

A. Ryan. And Corrinne.

Q. How about Leah?

A. Yeah.

Q. Okay.

A. Not from Long View.

Q. How did you know her?

A. Long View, just when I was younger.

Q. Not 2017 or 2018?

A. No.

Q. Are you still in touch with her?

A. No.

Q. In the fall of 2017, do you recall ever discussing medication or seeing a psychiatrist with Dr. Einhorn?

A. Maybe it was mentioned.

Q. What was said about it?

A. (No verbal response.)

Q. Do you recall?

A. No.

Q. Starting in 2018, January, you left school?

A. Yes.
Q. It was a break from school?
A. Yes.
Q. You went back to Long View, January of 2018; is that correct?
A. Correct.
Q. Then spring was at Long View?
A. Up to April.
Q. During the period of time from January to April of 2018, you continued to treat with Dr. Einhorn during that period of time?
A. Yes.

MS. RUOCCO: Off the record.

(Whereupon, a conversation was held off the record.)

EXAMINATION BY
MS. KATZ:

Q. Do you recall Dr. Einhorn telling you in 2018 that he -- withdrawn.

Do you recall in January of 2018 Dr. Einhorn telling you he thought that medication would be indicated for you?
A. Yes.
Q. And what did he say?

A. I don't remember the content.
Q. What do you recall generally?
A. It was something to do with the fact that I was really just having a hard time with school, and had weird little health issues that were impacting the issues at school, as well.
Q. So spring semester of that year, you had a hard time with school?
A. Yeah.
Q. Okay. What kind of problems were those back in 2018?
A. The teacher issue. He started bringing his dog into school.
Q. So there was a dog issue?
A. Yes.
Q. This was separate and apart from some dog attacking your dog.
A. Right.
Q. This was an issue with Mark Jacobs' dog.
A. Yeah.

MS. KATZ: Okay.

MR. FIEDLER: Who?

THE WITNESS: Jacobs. So as voted upon, as a community they voted, yes,

let him bring in his dog. The dog started nipping all these people and snapping at people.

It got to the point where I had left gym class. A student teacher came in. They said go back to class.

I was kind of looking not, like, super angry at that point, but I would say a little like aggressive in posture. And so then the dog jumped on me and tried to bite me and ripped my jacket, and, of course, I ran out of the room crying, and this was partly, because in part, of the dog attack, and the problems were in the summer with the dog, where it happened, too.

He said there was no problem with the dog. So did the school. And my special interest was dogs. I loved dogs.

So they were talking to me, and it was like, an issue, where like, I don't remember. I don't remember what happened exactly, but basically he

thought that the dog was fine, and it became like a whole big problem and issue, so like, okay, like, so with this dog, so the dog is fine. Right. It was biting. So there was clearly evidence to the contrary. And so that was just, like, a whole mess which was very upsetting, then, for me, I guess, with this dog.

EXAMINATION BY

MS. KATZ:

Q. Now, Fox, Dr. Einhorn, in the spring of 2018, he recommended a medication consult.

A. Right.

Q. What, if anything, was your response?

A. I was probably resistant, I'm sure. I did not want medication at that point. So I was very resistant to taking medications at that time, at all. I guess so, yeah. And I did not go on the medication ultimately.

Q. Did you say you did not want to go see a psychiatrist for a medication evaluation?

A. Yes.

Q. Did that have anything to do with the religious

issues or a combination?

A. A combination, I am somebody -- so for this, or for sort of the religious conviction, not that, but I don't take so much as a Tylenol for headaches. So I don't want to. So, I don't. So yeah.

Q. Have you ever used illegal substances?

A. No.

Q. No?

A. No.

Q. Do you drink alcohol?

A. No.

Q. Have you ever smoked marijuana?

A. No.

Q. Have you ever taken THC in any form?

A. Yes.

Q. When did you do that?

A. I started doing it, because I was having in 2020, I had felt like I had like -- I can't even describe it, like before a panic attack.

Q. Where were you getting that THC?

A. My stepfather.

Q. Was it a gummy?

A. Liquid.

Q. For how long did you take it?

A. Off and on for a year approximately.
Q. You stopped taking it in 2021?
A. Approximately, yeah.
Q. Do you take anything now?
A. Occasionally, but I don't like to. Just to kind of unwind if I feel like I have a lot of tension in the shoulders. So for pain.
Q. This is THC liquid?
A. Yes.
Q. Did you take CBD?
A. Yes.
Q. Do you still take it?
A. Not as much not now. It is not as helpful. I'm not sure. I'm not sure why.
Q. Do you remember any sort of treatment or interventions with Dr. Einhorn working with you in spring of 2018?
A. (No verbal response.)
Q. In that semester?
A. I don't remember.
Q. Okay.
A. I did do G-I-T-C-I-R-C-L-E circles and diagrams with him for problem solving finding emotional factors and triggers, and trying to work through

that with him. So he did some of those for different issues for me, for eating stuff, as well, at that time.

Q. Do you remember any other treatment or modalities at that time?

A. No. There was well pouring cold water on the face.

MS. KATZ: One moment. Off the record.

(Whereupon a discussion was held off the record.)

(Whereupon, testimony was read back by the stenographer.)

EXAMINATION BY

MS. KATZ:

Q. Okay. The pouring cold water on the face, was this for some specific reason?

A. If you feel, like, pained. So I have Raynaud's syndrome and very cold hands. The cold water thing is counterintuitive.

Q. Now, besides that incident with the Mark Jacobs dog, were there incidents with you, at all, where you had crying spells or other outbursts during the school year?

A. I'm sure there were, but I don't remember. I don't remember what it was.

Q. Okay.

A. I don't remember. It is too long ago. A lot was going on in my head.

Q. Do you remember what was going on in your head at that time?

A. A lot of anxiety and thinking about medication, where I was getting very stressed out over seemingly every little thing.

Q. Did anything help with your anxiety at that time?

A. Not really. The karate.

Q. Okay.

A. Reading was a distraction that came up at that time.

Q. April of 2018 you got thrown out of Long View. Is that correct?

A. (No verbal response.)

Q. Or suspended?

A. I don't know what happened. I remember I was yelling at Mark Jacobs, and he said that, I believe we took it to the judicial system of the school, and it was decided upon that he had to pay me for the

ripped jacket from the dog, for my North Face coat. For Christmas I got it. So he had to pay me back.

I yelled at him:

"Give me the frikking money."

He said:

"We took out of tuition."

So then it was not -- he agreed to it and yadda, yadda, yadda . And I then left early and did not go back.

Q. Do you recall conversations with your mother before withdrawing from school?

A. I don't remember anything specifically. I know that we both would have rather I was able to finish the year. She understood that it was like really ridiculous at that point. And she thought I was paranoid. I felt like he had it out for me. She said tell Dr. Einhorn. He said:

"I don't think you are paranoid. He seems to have an issue with you in particular, and that is based on not my perspective only, but having exchanged e-mails with Mark Jacobs."

Q. Did you ever have communications via e-mail with Dr. Einhorn?

A. No. Text messages maybe.

Q. You text messaged with Dr. Einhorn?

A. Yeah, and I don't have those, so the messages on my phone are not there anymore, since that phone got smashed, but I did, I guess.

Q. You text messaged with Dr. Einhorn?

A. Yes.

MS. KATZ: We are going to demand your carrier information, that phone number and all metadata, and all of those text messages between you and Dr. Einhorn.

THE WITNESS: So it was all stuff like scheduling, and it was not therapy issues.

EXAMINATION BY

MS. KATZ:

Q. Now Fox, did you ever have, at all, any substantive other scheduling by text message with Dr. Einhorn?

A. Once. And that was in the summer of 2018. I was going to a school and I had numerous problems in that program. So I text messaged him at that time, because I did not want to go into a new school not knowing anyone, and where I was going to be a grade

behind.

Q. That phone that you used in the summer of 2018, which phone was it ?

A. I have no idea.

Q. An Apple?

A. Samsung.

Q. Samsung?

A. Yes.

Q. Do you know the provider?

A. Verizon.

Q. The same phone number?

A. Yes, but not provider.

Q. Was the phone uploaded to the cloud?

A. No.

Q. No?

A. No.

Q. Did you ever do updates on the computer plugged in on the computer?

A. No.

Q. Do you have any text messages with Dr. Einhorn as you sit here today?

A. No.

Q. Now Fox, you turned 15 in May of 2018; is that correct?

A. Yes.

Q. At that time, were you menstruating?

A. No.

Q. How old were you when you began menstruating?

A. Once only at age 12 and one at 13 maybe. Approximately. And never again after that.

Q. To this date?

A. To this date.

Q. Did you talk to Dr. Einhorn in 2017 and 2018 about your fear of getting periods?

A. Yeah. I was very afraid of it.

Q. What were you afraid of?

A. Um.... it is hard to describe also a fear of like the unexpected. I know it is not entirely unexpected um.... at some point. They say it is really kind of, I guess anxiety provoking, so I definitely as soon as that happened, so that was a part of it. And so I don't know. It was a lot trauma, around, like, having a female body maybe, and so, yeah.

Q. What do you mean by trauma around having a female body?

A. I know there was, like, for instance Green Chimneys, so that thing. And there were all of

these boys there. It was like 99 percent. I was the only girl in the classroom. And so just being acutely aware of, like, kind of being an object of attention. So like so and I remember so like one of the kids always gave me cards like that said:

"You are my best friend. I love you"

And so I was like at the age of where I was uncomfortable. I did not verbalize it. A teacher came over and her comment was:

"We can't keep the boys off of you."

And, to me, it was not safe and uncomfortable.

And also, there was an incident there, and I don't know to describe it accurately. I know that there was a girl who, um.... did this to me.

Q. Did what to you?

A. I don't know. She must have been exposed to pornography. So I don't know how to describe it. So then I told -- told Dr. Einhorn about it, this incident with this girl who like would play out the scenarios. And I couldn't do anything about her. So my dad said:

"You are the only girl in her life. You have to be really nice to her."

So you know:

"You are older. You are her only girlfriend. She has she has a brother and her mom left."

I didn't feel like I could say anything to my dad about this incident. She was, like, so her hurting and pinching me and hurting me and threatening me, because I told her I did not want to play this game anymore. So then she got very upset with me.

Q. This girl, what was her first name?

A. Cassidy.

Q. How old were you at the time?

A. Probably eight.

Q. Was she in school with you?

A. She was like a friend of my dad's neighbor. So they both had kids the same age approximately. And the kids were more like, maybe I was older maybe, like nine or 10. Not 8. So, yeah, and so the two boys were like 11.

Q. She played out what? What are you referring to?

A. Um.... like, just like describing like prison rape. And basically, like putting me in the position of the person being assaulted. So, yeah, stuff like that.

Q. Did she actually physically hurt you or touch you?

A. Um.... so not really um.... but so still, and so psychologically that was extremely damaging to do that.

Q. Now, when you started restricting your food intake, were you aware that, that can have a correlation in terms of stopping your period?

A. I don't remember.

Q. Okay. Was there at any time where the food restrictions were related to you wanting to prevent yourself from getting your period?

A. Potentially. I don't remember if I even was aware of that consequence. So I think it was me looking for any kind of control over my body and what was going on at that time.

MR. FIEDLER: Off the record.

(Whereupon a discussion was held off the record.)

(Whereupon, a break was taken.)

(12:15 to 12:24 p.m.)

EXAMINATION BY

MS. KATZ:

Q. Now Fox, over the summer of 2018, you mentioned

something about an orientation in a school?

A. Panas, probably an acronym. Or BOCES Special Ed classes.

Q. A summer program?

A. Yeah, summer.

Q. What else did you do back then in the summer of 2018?

A. I don't remember. But karate and a vacation was taken.

Q. To where?

A. (Unintelligible.)

Q. Spell that.

A. C-H-I-N-C-O-T-E-A-G-U-E.

Q. Who did you go with?

A. My mother and step father.

Q. For how long?

A. A week.

Q. What did you do there?

A. I don't know. Saw horses. Went to the beach. Went on a boat, and so it was like things of that nature.

Q. Do you have photographs from the trip?

A. I don't remember which phone it was. So I don't remember.

F. Varian

MS. KATZ: Well, if you do have photographs, don't delete them for the lawsuit.

THE WITNESS: Okay.

MS. KATZ: Don't delete the photos. Hold onto them.

THE WITNESS: Okay.

EXAMINATION BY

MS. KATZ:

Q. The plan for the summer was for you to do what?

A. The Oasis program.

Q. And school in the fall; is that correct?

A. Yes.

Q. Is Oasis the same as Brewster?

A. No.

Q. You never went to Brewster?

A. No, not high school. The fall.

Q. In the fall of 2018, did you start at Oasis?

A. Yes.

Q. Which grade was that?

A. I don't remember. Maybe freshman, but it was sophomore classes.

Q. It was Special Ed school?

A. A program in a regular high school.

Q. Then was Panas?

A. Yes.

Q. When you enrolled at Oasis did you go by Isabella Basile?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. In the fall of 2018 you still identified as female?

A. Yeah.

Q. And with the name Isabella?

A. Bella.

Q. Did there ever come any point in time where that your identification of your pronouns changed or your names changed?

A. Yeah. There was. At some point. Probably late October or early November. So it was really like mid-October. And I never really liked my birth name. And I was asking about changing it all of the time to my mom to call me whatever. Whatever I thought the was cool at that point. I settled on a name that was Gabriel, because my mom said she would use it. So it was -- I am a -- it was a girl's name she knew a girl with that name at some point. So I

thought -- so I really, liked it, not solely because it was more masculine. But partly.

And so if I changed pronouns -- I started using that name at school. And I did not change pronouns. So people were just asking me, and I said no. She/her is fine. I am okay with that. And at some point that changed pronouns. To the point where, so, like, I felt, like, so I don't know what, but like people saying weird things to me, um.... and at like, um.... adults and kids -- so kids sometimes were asking me about it. And the school psychologist.

And then so Dr. Einhorn was being, like, you will get a lot weird looks, okay, with having a really weird -- a weird name. And I was, like, um.... I don't know. And he was, like, people will think you are, like, I don't know like transgender if you have a male name or something.

MR. FIEDLER: And so where was Oasis?

THE WITNESS: Lakeland central school district. Panas High School. Walter Panas High School.

EXAMINATION BY

MS. KATZ:

Q. Now, in October of 2018, around that period of time you changed your name to Gabriel?

A. Yes.

Q. You told people you wanted to be called Gabriel?

A. Yes.

Q. Did you do something legal on that?

A. No.

Q. Did you tell the school of a changed name on school forms at that time?

A. Yes.

Q. Did you go by Gabe?

A. Combination.

Q. Part of the reason you wanted to go by Gabriel, was it was more masculine?

A. A little bit, yeah.

Q. Okay.

A. An went with the short hair and flannel, so the whole image with my hair was about this length and I did the women's flannel and stuff like that at that time.

Q. So at some point after you changed your name to Gabriel, did you also change your pronouns?

A. Yes.
Q. When was that?
A. After a couple of months.
Q. Okay.
A. So it was like mid-January where I felt like for people to see me as male. And I think part of that was because I was being told then you will get weird looks for the rest of your life, because you have a weird name, and so, like, I was pressured to fit one or the other box. Like I remember a teacher was like can I call you Gabby? And I was, like, I don't like that name, no. I just said Gabriel. I told you that. So yeah.
Q. Do you recall discussing in the fall of 2018, your name change with Dr. Einhorn?
A. Yeah.
Q. Do you recall any discussions you had with him about that?
A. Um.... I don't remember the exact content. I remember he said, you will get strange looks with an odd -- a male name, if you are female. So I don't remember much besides that.
Q. Do you recall anything else that he said about your name change at that time?

A. Not off the top of my head.
Q. Do you recall there being a discussion with Dr. Einhorn in November of 2018 wherein, a friend was planning a sleepover party, and you were not going?
A. Yeah.
Q. Can you tell me what happened with that sleepover party?
A. A friend of mine that happened to be from Brewster, had a whole big birthday party, and was it was, like, all friends of hers, and it was of the program the Little Mermaid for the party with her. So it was her birthday. I hemmed and hawed and did not end up going.
Q. Why did you not end up going?
A. I don't remember off the top of my head. I feel like it was just, like, anxiety and it was really awkward so, yeah, I tend to be socially avoidant, I guess.
Q. Did it have anything to do with your name or your pronouns at that time?
A. I don't think so. My friend called me Gabriel, and she was very supportive of, like, even when I changed my pronouns.

F. Varian

Q. Do you recall there being a number of discussions where Dr. Einhorn suggested medication at or around that time?

A. I'm sure it was brought up. It was something he brought up a few times. I don't remember what or when.I was hesitant, and did not want to take anything, and, so, like, and etcetera, etcetera, you know so, like, I don't know. I think that's why he brought it up that time, for this birthday party so for the anxiety.

THE STENOGRAPHER: Can I ask you to please slow down?

EXAMINATION BY

MS. KATZ:

Q. Now, at some point in time, did you decide that you also wanted a binder, and to get one for your breasts?

A. Yeah, I decided that, like, in late December, I will say. Or mid-December. I don't remember. I don't remember.

Q. December of 2018?

A. Yes.

Q. What made you want a binder?

A. I really like sort of that flat-chested

aesthetic. It was considered more masculine. And I realize now -- before this moment, too, it is also because that is generally speaking to go with the like more skinny body type. So, again like the body image issue was at play.

Q. So at that time, in December of 2018, was part of the reason related to the binder to appear more masculine; is that correct?

A. Yes.

Q. And did you, indeed, get a binder?

A. Yeah.

Q. From where?

A. The GCTB company. It was too tight. I got another one, an Underworks brand.

Q. How many binders have you had?

A. Two.

Q. Just two?

A. Yes.

Q. For how long did you wear them?

A. Period of time? Hours?

Q. Period of time.

A. Until shortly before the top surgery.

Q. Okay.

A. So like in the morning, so like around

5:00 a.m. to 6:00 a.m., and the bus was 7:15 a.m., so for school, I wore it from morning to when I got home, as like to a little bit after 3:00 p.m., more than eight hours. Yeah. More than what is recommended to where a binder can be or have damaging effects to the ribs and break ribs. So at some point, so it was painful to, like, wear it and kind of -- I don't know at some point I had a sharp pain if I was breathing in.

Q. So you wore the binders for about a year; is that correct?

A. Maybe ten months.

Q. And then the December surgery?

A. Yes it was early January.

Q. Approximately 11 months you wore a binder?

A. For a month before I did not wear it prior to the surgery because of skin elasticity, it was concerning for me.

Q. Did you ever to go to a doctor to order that binder or on your own?

A. There is no doctor to order from. Anyone can get it.

Q. From medical companies or Amazon?

A. Not Amazon. I hesitated. My mom said you are

not getting it from Amazon. So an actual company at least so I use those companies.

Q. You woke up 5:00 a.m.?

A. Yes.

Q. To put it on?

A. To get ready for the bus for 6:00 a.m. With ADHD, so then I need time, so I cannot run out in 15 minutes.

Q. How long did it take to put on?

A. You slip it over your head, so similar to a sports bra.

Q. When you wore the binder for ten months, how did that make you feel?

A. I liked the aesthetics of a flat chest, but it was uncomfortable. And it is pressed tight, and it is making your breasts appear, like, flat, so it was you can imagine not very comfortable. So, yeah and I was in a musical. I don't know how. And I seemed to have, like, a lower stamina and I got breathless more easily. I feel it was from the binding, because it was incredibly tight, and moving around and wearing that over eight hours a day for several months can be damaging. And I do think it damaged me physically.

Q. Was an assessment of your breathing made by any doctor in any way, shape, or form?

A. No.

Q. Let's backtrack to your medical issues in the fall semester. It started at Long View; is that correct?

A. Yeah, my hand were freezing. And gym was outside in snow. So my hands during that time were bluish grey. That was very concerning. I had low energy. And no period. And my mom was concerned about me. I got tested on A and A. And so it showed nothing.

And so fall of 2018 at Oasis, I saw a specialist for all of these issues, and her, like solution was to put me on progesterone. And I was hesitant, because she was concerned about the period thing. I was more concerned about all of the other things that were impacting my daily functioning at that time.

Q. Did you go on progesterone?

A. No,I did not want to.

Q. The specialist was who?

A. (No verbal response.)

Q. The name?

A. I don't remember.
Q. Or the location?
A. Hawthorne, New York.
Q. Was the specialist covered by insurance?
A. Mine.
Q. Which insurance?
A. Child Health Plus.
Q. What?
A. Child Health Plus.
Q. Through whom?
A. Medicaid, maybe. I don't remember who.

MR. FIEDLER: Off the record.

(Whereupon, an off the record discussion was held.)

EXAMINATION BY
MS. KATZ:
Q. So you likely had Medicaid?

MR. FIEDLER: Right.

THE STENOGRAPHER: Yeah.

EXAMINATION BY
MS. KATZ:
Q. When were you put on Medicaid first?
A. I always did.
Q. Did you have it still?

A. Yes.
Q. Do you know your mother's insurance?
A. I don't know. Probably out-of-pocket.
Q. Were you ever covered by her insurance?
A. I'm not sure.
Q. Okay.
A. She has no insurance. Home care nurses do not get benefits.
Q. Any other medical issues?
A. (No verbal response.)
Q. In spring of 2018 besides what you have testified to already?
A. I don't think so, but my extremities were all cold.
Q. Any other specialists?
A. No.
Q. Did you ever see an OB/GYN?
A. Never.
Q. Never?
A. No. Never.
Q. Okay.
A. I did have gas once so we went for me to a gastro.
Q. Why did you not ever go to a gynecologist?

A. I don't know.

Q. At 12, 13, 14, you have never gone to an OB/GYN, ever?

A. Never. I am not sure entirely. I just I think it was really, like oh, like, you stopped, because I -- I don't know. Like, it is everything -- so maybe it's relevant or not -- so -- oh, well, so there are many other issues. There were too many other issues. It got backseated by other issues impacting my daily functioning.

MR. FIEDLER: Off the record.

(Whereupon, an off the record discussion was held.)

EXAMINATION BY

MS. KATZ:

Q. Up until today you never had a pap smear?

A. No.

Q. Have you ever had a mammogram?

A. No.

Q. To be clear, my question is, have you ever had one?

A. Prior to 16, no.

Q. Prior to being 20?

A. I have not had breasts for the last four years

so that's why.

Q. Okay.

A. That's why. Why would I?

MS. KATZ: Okay. Sometimes men get mammograms. It is just a question and I'm not implying anything.

MR. FIEDLER: Men have mammograms because some men, they have breasts sometimes.

MS. KATZ: Okay. Great. Regardless --

MR. FIEDLER: You got to put something between those plates, right?

MS. KATZ: Okay. Yeah, sure, okay.

EXAMINATION BY

MS. KATZ:

Q. Okay. Now, you mentioned January of 2019 approximately you changed your pronouns?

A. Yes.

Q. When you changed your pronouns in January of 2019, did you change them to your school, at your school?

A. Yes, I wanted to be called they or he, I told

them.

Q. Did the school do that?

A. Yes, they were affirming. Mostly I had issues with my science teacher. She disliked me from the moment I was in her class basically.

Q. You changed pronouns to your family and friends, as well?

A. I did not have out of school friends so much, but yeah. I told my mom a couple of weeks later.

Q. Was your mom affirming, as well?

A. Initially she was concerned and upset by it, but I was kind of, like, please don't freak out. Please just understand and she relented.

Q. At some point in time, in fall of 2018 or early 2019, did you also cut your hair shorter?

A. Yeah. I got a haircut. I don't remember. I don't remember when exactly, but I know it was, like, um.... probably late November.

Q. 2018?

A. Yes.

Q. Was it shorter than it is now before?

A. No, after the haircut it was, like, very, you know, more short.

Q. Why did you do that?

A. Um.... because I liked the look of it and I wanted to appear more masculine.

Q. You discussed the change of pronouns and the hair length and haircut with Dr. Einhorn?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. Do you recall any conversations with Dr. Einhorn about these developments?

A. Not many specifics.

Q. Do you recall what, if anything, Dr. Einhorn said about you cutting hair short?

A. He was kind of -- I don't know. I don't --he was, like -- I don't know. He seemed to think that I cut my hair, because of that -- it was almost two months before I started using different pronouns. So, um.... I don't know. It was just, like, I feel like he thought that I was gearing up to transition, and he kind of thought then, that maybe -- but then I wasn't a hundred percent on it. So I was just kind of just playing around with my name, because I disliked my name anyway. So I said I'll change it. And one of other names I considered asking my mother about, where I asked her:

"What else did you want to name me, other than Isabella."

She said she had the name Gabriel. And we went back and forth with Gabriel and Matilda. I settled on Gabriel. I cut the hair and just kind of started dressing more masculine, a little bit more.

Q. Okay.

A. So I don't remember the exact thing he said. It seemed the issue was, like, he said, 'well, you will get a lot of questions and a lot of looks if I present and use the name you are using, and are female.

Q. Okay. Do you remember anything else you two discussed in regards to that?

A. No, not particularly.

Q. Did you ever discuss transitioning with Dr. Einhorn?

A. Yeah. I think there were discussions around that.

Q. And do you recall when you first discussed that?

A. Probably November, late. I believe, no. I don't remember. I don't remember. So I don't remember. It is too long ago. Now it's a few years

ago.

Q. Did you tell Dr. Einhorn that you wanted to transition?

A. At some point, yes I did.

Q. Okay. Do you remember when that was?

A. Not off the top of my head, no.

Q. Do you recall what you told Dr. Einhorn about why you wanted to transition?

A. I told him, I mean, I know the reasons -- I liked being treated like a boy more than I liked being treated as a girl. I guess so, yeah.

Q. Did you tell him that you felt like you were a boy?

A. Yeah, I guess.

Q. Do you recall when you first started feeling like you were a boy?

A. I don't know, really. I feel like that's -- I think I started feeling like I was a boy, because I was tired of everybody questioning why I was so masculine. So when you are just a normal boy no questions are asked. When a girl is masculine, you get asked questions like:

'What are you even?'

Or:

'What are you, a dyke now?'

And people around you say things like:

'You know, if you present like that, and you have that kind of name, people will ask you questions and give you looks.'

So I just kind of figured that I must be a boy, because I don't look the way that people see girls like me. They see them as other. And I already was seen as very other my entire life. So I was very sick of that.

Q. Okay. Put a time frame feeling like you first started feeling like a boy.

A. (No verbal response.)

Q. Was it 2018? Prior to that?

A. Around the fall of 2018. Like, late fall to early winter.

MS. KATZ: Okay. Off the record.

(Whereupon, a conversation was held off the record.)

EXAMINATION BY

MS. KATZ:

Q. At some point, did you start to decide trying to change the name Gabe to something else?

A. Yes, after starting using different pronouns,

so to help people if I changed my name, because they are still associating the name with the pronouns. And so I -- at that point I started to be, like, really indecisive, and not really not having a good sense of identity or how people see me always. So I was really trying to control that.

MS. KATZ: Paul, can you please read back that answer.

(Whereupon, the answer was read back by the stenographer.)

MS. KATZ: Thank you.

EXAMINATION BY

MS. KATZ:

Q. What did you change your name to?

A. To Rowan.

Q. In January or February of 2019?

A. Yes.

Q. Where did you get that name?

A. I was looking through like different names, and also wanted something my mom would be okay with calling me. And I suggested Rowan, that it was a good idea, since it means redhead, and it was very fitting, I thought.

Q. Did you change your name to Rowan to sound more

masculine?

A. Yeah.

Q. So as of January or February of 2019, you were identifying as a male, and you were presenting as a male, and you were using a male name; is that correct?

A. Pretty much. I kind of, like, identified as sort of, like, in between. So sort of like nonbinary and they/them.

Q. Did you discuss with Dr. Einhorn the change of name to Rowan over the course of 2019?

A. Yes.

Q. And did you further discuss issues that arose when you were addressed with the wrong pronouns or wrong name?

A. Yes.

Q. Now Fox, could you tell me about the conversations.

A. I was like pissed off about it. Especially with my science teacher, who just made it very clear, even before I started transitioning, that she didn't really like me, and certainly and when I had changed my name and pronouns, she found it very easy to take out that dislike on me, where she was using

different pronouns. I got upset. She would use the wrong name in class and then say:

"Oops, I'm so sorry."

She made a lot of comments like that. So she said it kind of sarcastic or something like that. She was constantly saying stuff like that to be disrespectful, and as such it was, like, a bone of contention, and that came up a lot.

Q. This science teacher identified you as female or she/her?

A. Yes.

Q. That made you upset?

A. Yes. And I was I know it was because of me, because there was one other student who was trans, and she never did that, or called that kid other names, and never misgendered her.

Q. So this science teacher called you Bella?

A. Yes.

Q. That also made you upset?

A. Yes.

Q. When other people misgendered you or dead named you, that made you upset?

A. Probably not if people slipped up.

Q. When you first started discussing transitioning

with Dr. Einhorn in the fall of 2018 period of time, what did you discuss with him specifically?

A. (No verbal response.)

Q. Was it just changing your name? Changing pronouns? Did you discuss your surgery, something else?

A. I know that I did not plan on getting surgery at that point. So no, I don't think we talked about it.

Q. At some point do you recall discussing hormones and/or surgery with Dr. Einhorn?

A. Yeah, a while down the road. After binding. Because I think it was like taking off the binder and not having that sort of flat chest appearance where it was that it started to bother me even more, because I couldn't like hide it all the time. And so um.... Like, and so -- and I remember initially kind of like -- so like saying to other people and being, like:

"Oh, I am afraid to get surgery, and, like, I don't really know that I really need, it so I shouldn't get it."

And eventually that changed, because of, you know, I realized that I was not going to be flat

chested all the time. So I ended up kind of coming to the idea of surgery. And after transitioning, Dr. Einhorn offered to write me a referral for hormone therapy, and I said to wait.

Q. Shortly after you transitioned. What are you referring to?

A. It was also after formally changing my pronouns at school.

Q. January of 2019 was when you considered transitioning?

A. Yes.

Q. So January of 2019 after that period of time you discussed with Dr. Einhorn hormones?

A. He offered to write a referral for hormone replacement therapy.

Q. You told him that you did not want it?

A. Correct.

Q. At some point you talked with him about having surgery?

A. Later.

Q. Okay.

A. So that was the time I did a musical with dancing and the binder was too uncomfortable and the binder got in the way of that. So I started to say

maybe I would get this surgery. I want to appear flat chested at all the time.

Q. Did you talk to Dr. Einhorn about your feelings on that?

A. Yes.

Q. What did you say to him?

A. Pretty much what I just said, and that the stuff with the binder was not good, and now I did not want breasts, at all.

Q. When you initiated this conversation with to Dr. Einhorn, do you know when that was approximately?

A. The musical was in June. So it was maybe in May.

Q. Medical records indicate you started to talk to Dr. Einhorn about the top surgery in March of 2019. Does that refresh your recollection?

A. Maybe.

Q. So over 2019, did your feeling about top surgery, did those feelings intensify?

A. Yes.

Q. Okay. How did your feelings about that change increase or intensify?

A. I got sick of the binder thing. I resented

that I couldn't be flats chested all of the time. And so then, I just really did not want to have breasts anymore.

Q. Did you tell Dr. Einhorn how important it was for you to have the surgery?

A. Yes, I told him it was important.

Q. What did you say?

A. I know I was at that point getting pretty depressed about my situation and feeling really misunderstood. And um.... I was boxed in. Now I wasn't being questioned like about being a masculine girl, like:

'Why are you a boy then?'

So I really could not win for losing. And so I was like kind of, like, yeah, my feelings kept intensifying, and I was expressing that to him, that I was like, you know, getting worse and worse now, you know so without top surgery, because I had breasts.

Q. Did you ever tell Dr. Einhorn that you felt like you were going to kill yourself if you did not have top surgery?

A. Yeah, I'm sure I did say that, yes.

Q. And you told him that more than ince; isn't

that correct?

A. Probably. I'm sure I said it a lot.

Q. Did you really feel that you would kill yourself getting the top surgery?

A. It is hard to say. I know I felt it. And I was in a really, really, really, like, bad place, and I remember wanting to cut myself. Not to kill myself. But like to do -- I was talking about self harm. And I don't know if I expressed that specifically to him, but that fell under the umbrella of "I want to kill myself."

Q. Now, as of this time you were still doing the Oasis program?

A. Yes.

Q. How did you do in school that year?

A. Okay. So I had to take history regents twice, because Oasis -- in Brewster, because I failed a hundred percent, the first one. So I took it again, and I passed at that time. And I passed the biology regents in that year. So overall, it was a pretty successful year, but I chose not to go back, because I really um.... I remember having a conversation with a friend that I just really could not stand going, and neither of us could. And neither of us

ended up going back, because of that. Um.... but so I did finish out the year.

Q. So was there at some point in the spring semester of 2019, where you were at risk of failing at Oasis or failing?

A. I was at risk of failing, and I had not completed enough labs. I kept leaving.

MR. FIEDLER: Off the record.

(Whereupon, an off the record discussion was held.)

(Whereupon, a short break was taken.)

(1:16 - 1:34 p.m.)

EXAMINATION BY

MS. KATZ:

Q. Okay. And other than to Dr. Einhorn, did you ever tell anyone you would kill yourself if you did not get top surgery?

A. To my mom.

Q. Do you recall what, if anything, your mom stated in response?

A. I don't remember. Not specifically. She wanted me to wait. Just to wait. Everything was moving far too fast to be, you know, healthy or

normal, and I remember her stating to Dr. Einhorn she thought that it was some kind of trauma response I was having, and so, like, it was as a result of just everything that happened to me up to that point. And she tried to tell him that. I remember his words were:

"Mom..."

And he kind of talked over her since she was getting kind of loud, and just kind of just like very animated. He said:

"That is not based in reality, Mom. That's is not based in reality, and there is substantial evidence that trauma would cause a response like this."

Which I can't imagine to hear, as a parent. After hearing that, and then a couple of years later your child tells you that you are a hundred percent right confirms your worst fear. So, yeah so that -- that was the conversation.

MS. KATZ: Move to strike the portions of the answer that were not responsive to the question.

EXAMINATION BY

MS. KATZ:

Q. The conversation with Dr. Einhorn where your mother said things were moving too fast, when was that conversation?

A. January or February.

Q. 2019?

A. Yes.

Q. When your mom said she wanted you to wait longer before having top surgery, what, if anything, was your response to her?

A. Well, I tried to tell that I felt I would have no quality of life, and I would want to die, for, like, until I got it, or until I, you know, I hurt myself or something.

Q. When you expressed that strong feeling to your mother she agreed with you and said go ahead and have the surgery?

A. Well, it took some months of just trying and convincing, yeah.

Q. So it took some months of just trying and convincing, you mean that you had to convince your mom to let you undergo the surgery?

A. Yeah, yeah. Dr. Einhorn -- both of us, kind of, were like, convinced her to allow it. Like, he would be trying to, like, quell her fears about a

trauma response about rapid onset gender dysphoria, and that is not a thing, and not based in reality, basically, is what he said.

MS. KATZ: Can you please read that back.

(Whereupon, the answer was read back by the stenographer.)

THE WITNESS: It's called "rapid onset general dysphoria."

EXAMINATION BY

MS. KATZ:

Q. So the discussions about top surgery, is it fair to say that those discussions lasted for a good nine to ten months; is that correct?

A. Six months.

Q. So about six months of trying to convince your mom?

A. Yeah.

Q. In the discussions with, in terms of -- withdrawn.

Your decision making about the top surgery was something you were thinking about for a good ten months before you ever had the surgery; is that correct?

F. Varian

MR. FIEDLER: Objection.

To the form of the question don't be persuaded by the manner in which the question is asked. You can assume it is an open ended question, and you can answer in any way you want.

THE WITNESS: Okay. I didn't think I wanted top surgery for a couple of months. Like I tried, to say, like, I, maybe, like, it would be good, but I don't really need it. I don't really want it. I tried to say that until so like April or May. And then, like, I said, with musical rehearsals, I was frustrated with the binder, and the lack of being naturally flat chested and I felt like I really needed to have my breasts removed.

EXAMINATION BY

MS. KATZ:

Q. So your desires for wanting the top surgery lasted from April or May up to the surgery of December of 2019; is that correct?

A. Correct.

Q. Other than your mom and Dr. Einhorn, did you tell anybody else you felt that you wanted to kill yourself if you could not have this top surgery?

A. I am sure I mentioned it to girlfriends. I felt like they would understand, and I said I wanted to die because I feel dysphoric, and stuff like that.

Q. Okay. And was the school counselor a psychologist?

A. Yes.

Q. Was she a school psychiatrist, social worker; something else?

A. A psychologist.

Q. You saw him just periodically?

A. Weekly, we were supposed to -- to go in weekly, or if we had an issue.

Q. Was this person someone who every student had to treat with?

A. Two of them. For 50 kids.

Q. And not specific for you.

A. No. It's an Oasis program.

Q. Did you talk to -- withdrawn.

What was the psychologist at Oasis' name?

A. Matthew Harris.

Q. You mentioned there was another counselor there. Did you see the other one?

A. No.

Q. Did you see Mr. Harris once a week for the whole 2018 and 2019 school year?

A. Yes.

Q. Did you talk to him about your transition?

A. Yes.

Q. Did you two discuss top surgery?

A. I don't remember. Maybe.

Q. Did you speak to him about hormone therapy?

A. Possibly. No. No. I don't remember. I don't remember our conversations all that well.

Q. Okay.

A. They were rather short.

Q. How long were your sessions?

A. Fifteen to twenty minutes unless it was a major issue.

Q. By the way, how long were your sessions with Dr. Einhorn?

A. Forty-five minutes.

Q. At some point did you ask Dr. Einhorn about any referrals for top surgery?

A. I was having trouble like, finding somebody

without a three year wait list. So the surgery wait list was very, very long. So he gave me a name after that.

Q. You were searching for a plastic surgeon?

A. Yes.

Q. On your own?

A. Yes.

Q. Was your mother assisting with that research?

A. Yes, but she said this is really, really your responsibility if you want to do this.

Q. So you told Dr. Einhorn you couldn't find anybody with a shorter wait list?

A. Right.

Q. Then he gave you a name?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. Did he give you names other than Dr. Chin?

A. No.

Q. Did Dr. Einhorn tell you anything about Dr. Chin?

A. That he treated somebody who was satisfied with his results with. Dr. Chin.

Q. Another patient?

A. Mm-hmm.
Q. Yes?
A. Yes.
Q. Did you ask for other names?
A. No.
Q. Other than Dr. Chin had Dr. Einhorn did anyone ever recommend any other resources for you?
A. The Loft at White Plains. And also a gender therapy counselor, who I saw twice. I don't remember the name. It was sessions. I don't think anything was about top surgery.
Q. The therapist was in Albany?
A. Albany.
Q. Do you remember the therapist at Albany, their name?
A. No.
Q. You saw them twice?
A. Yes.
Q. Did you discuss top surgery?
A. No. Just over the summer, where I wanted the top surgery, it was a goal, but nothing concrete at that point.
Q. What is your understanding of the therapist in Albany, the reason for those sessions?

A. To talk about genders and identity and how I was identifying, I suppose.

Q. Did Dr. Einhorn recommend that you speak to anybody more in terms of your gender?

A. Yes.

Q. Do you recall why?

A. Not really. I don't remember. I don't remember conversations about it. So he just thought it would be a good idea for my mom's sake. I'm not sure if they were a psychiatrist. Maybe, just, like a mental health counselor or something like that. I don't know what they were.

Q. Do you know why where Albany that was?

A. The Pride Center.

Q. Okay.

A. Or something.

Q. And so one trip to Albany, or was it something else?

A. Two trips.

Q. In 2019?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. And you mentioned with The Loft. So what is

that?

A. I don't know like a Pride Center thing with a transgender youth group, and for the parents. It was like, um.... a group with the parents in one room, kids in the next room, so people can share experiences, I guess and um.... I know my mom was just really, really, really uncomfortable with it, and I know that a couple of times she went, she left.

Q. Dr. Einhorn referred you to The Loft?

A. Yes.

Q. This Loft was to talk about these issues?

A. Yes.

Q. With peers?

A. Yes. Nobody was licensed. Or for psychology. I don't know their certifications.

Q. Did Dr. Einhorn say why he wanted for you to go to The Loft?

A. I don't know, maybe to connect with other people my age at some point, because I was just in school home schooling. Again, and, um.... You know, that it would be good for me.

Q. This is fall of 2019?

A. Yes.

Q. Is that correct?
A. Yes.
Q. How many times did you go to The Loft?
A. Maybe six times.
Q. Did you speak about undergoing top surgery with anybody there?
A. Yes.
Q. Who did you mention it to?
A. The group there of people.
Q. Was that peers or people there that had top surgery?
A. The guy leader.
Q. Did he speak about his experiences?
A. No, I never talked to that guy one-on-one personally.
Q. Did you tell anybody in that group, you felt like you wanted to kill yourself if you could not have the top surgery?
A. Probably. I think the people in that group felt similarly, which was why Dr. Einhorn thought that it would be good for me to go.
Q. Did you spoke about hormone therapy with anybody at The Loft?
A. It was brought up.

Q. And why did you not go back to Oasis fall of 2019?

A. Um.... I was really miserable there. Through the year, I was successful enough in my academic career, but by about April, I was, like, I cannot do this again. I don't want to come here again. Like pretty much all people in my class was very like rowdy teenage boys. And I okay with that. Then they said things that were, like, really homophobic and really bothersome. And so it is one thing to talk and laugh with somebody over lunch, but I didn't really want to hear that stuff anymore. So I just left.

Q. When did you do that? Summer of 2019?

A. I don't know. I don't remember. No, I don't remember. I don't remember any specific event.

Q. Okay.

A. I did go to summer camp and did a one week musical.

Q. By the way, have you ever been paid for any acting jobs?

A. Yeah, in the last few months.

Q. What is that?

A. This month.

Q. What was the job?
A. A student film stipend.
Q. Through a school?
A. Yes.
Q. Which school?
A. Fairfield University.
Q. Okay. Are you still pursuing a career in acting?
A. I would like to.
Q. Now, as an actor, does your anxiety dissipate in that arena?
A. No. Not always. I manage much better. I used to not be able to audition. I was told multiple times I don't audition well. I am capable, but for some reason -- no, not for some reason -- but it is the anxiety, and I tend to not to be able to just show my capabilities.

THE STENOGRAPHER: Can I ask you to please slow down?

EXAMINATION BY
MS. KATZ:

Q. What happens with your anxiety in the production?
A. I can work through it if I am in it. Out of

character, I am very anxious. If I can push through it enough, I am able to do my job and kind of enjoy doing it.

Q. So this stipend was the only time you ever were paid for any acting job?

A. Yes.

Q. Ever?

A. Right.

Q. So after Oasis, what did you do next for schooling?

A. So a group I attended for home schooling was there, and it was all younger kids. It had kind of, sort of nice teachers. The kids were cool. I was too old and awkward. A mother pulled me aside and told me of a place actually very close by, more for kids my age group. So I ended up going there to that place starting in, like, November of 2019.

Q. Okay.

A. And I was also in a production, a musical, with the same place.

Q. You were in a production fall of 2019; is that correct?

A. Yes.

Q. Which company?

A. Pied Piper.
Q. Which production?
A. Avenue Q. I did not get to perform. I got the top surgery so I dropped out.
Q. You went for rehearsals, however?
A. Yes.
Q. What was your role?
A. Brian.
Q. A main character?
A. Sort of, kind of main-ish.
Q. A male or female?
A. Male, because I was presenting that way.
Q. Okay. So when you started at Workspace in November of 2019 you changed your name upon admission?
A. Yeah, so I was Rowan. But then I changed it to Fox. I wanted to be Reese also. Then I did change my name to Fox two weeks later approximately.
Q. How did you spell Reese?
A. R-E-E-S-E.
Q. Why did you change your name from Rowan to Reese?
Is it?
A. I don't know. I don't know really. I got like

bored of names very quickly.

Q. Okay. When you were enrolled in Workspace, did you identify as he/him?

A. No, they/them.

Q. Okay. Then you changed your name to Fox?

A. Yes.

Q. And the pronouns?

A. They/them.

Q. Why did change to Fox?

A. I just liked it better.

Q. How did your fall semester at Workspace go in 2019?

A. Not fall. From end of November to December. Good. I was making friends pretty quickly. I felt like I would fit in there. Overall it was going pretty well.

Q. How did you do academically there?

A. I wasn't really being great or anything. It was just kind of, like, um.... Like, I don't know. Like, you just started settling in. So yeah, so I did pretty well.

Q. You mentioned that earlier, that Dr. Chin came from Dr. Einhorn. Approximately when was that you got the referral?

A. September, late.
Q. Did you do any research about Dr. Chin after getting his name?
A. Yes. I looked him up. And saw he was a plastic surgeon specialist for hand surgery on a doctor website. So I don't know, but a plastic surgeon. And at the time, I guess I was not aware of that -- any -- really -- so I mean, I guess I knew there are some specialists in top surgery, or -- but -- so I don't think I really understood the importance of that.
Q. Do you read his online reviews?
A. Yes.
Q. Did you read positive or negative reviews; something else?
A. They were pretty solidly positive. So nothing majorly alarming about them.
Q. Then did you make a phone call for a appointment with him?
A. Yes.
Q. When was that?
A. First appointment was mid-October.
Q. Okay. Do you recall the first meeting with Dr. Chin?

A. Well I explained who referred me and why I was there, and I don't recall much more than that.

Q. Your mother was present for that meeting?

A. Yes.

MR. FIEDLER: Off the record.

(Whereupon, a conversation was held off the record.)

MS. KATZ: I need a break.

(Whereupon, a conversation was held off the record.)

(Whereupon, a short break was taken.)

(2:10 - 2:20 p.m.)

EXAMINATION BY

MS. KATZ:

Q. How many times did you see Dr. Chin preoperatively?

A. Two or three.

Q. Do you discuss the top surgery ?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. Do you recall the kind of surgery discussed?

A. He said it was lollipop method versus double

incision. And I explained to him I didn't think the lollipop method works with scars straight down instead of -- I don't know -- a swooping underneath the breast tissue. I said I didn't think it will work. My understanding is that, that it would leave, like, skin or something, that's not quite, like, right, and I said I did not want another surgery, and that was my main goal and he was, like, "Oh, you will have more scars." And so, I was, like, I am okay with more scars, but I don't want to have to have a revision, and I don't want to go under the knife again, and that is not something that I want, but I ultimately I trusted his professional opinion, because he went to medical school, and so, like, he went to school longer than I did. So I trusted his opinion, and he decided to go with the lollipop method, and, so, like, I don't know if you saw my post-operative photographs from him, but it was absolutely something that anybody wanting top surgery would want a revision for. It was uncomfortable. And my skin folded over on itself, which is very painful, so, yeah.

Q. Besides you and your mom, was anybody else present at the preoperative visits, at all, with

Dr. Chin?

A. No.

Q. Other than Dr. Chin did you speak to any other plastic surgeons prior to surgery?

A. No.

Q. Did you talk to Dr. Einhorn after you met with Dr. Chin?

A. Yeah, we talked definitely. I don't remember -- I don't remember how the conversations went.

Q. Do you recall if Dr. Einhorn told you questions you should ask Dr. Chin?

A. We want over stuff. And it was a back and forth and asking questions, but I don't remember specifics of that conversation.

Q. Do you remember anything you told Dr. Einhorn about what you took away from your conversations with Dr. Chin?

A. I don't remember.

Q. Did you do any research on your own about the two top surgeries types that Dr. Chin had mentioned at the consult?

A. I already did that research. So I knew about excess skin. And it was the most optimal way to do

it. But I thought, "Well I am just somebody reading online. He's a medical doctor, and he went to school for this, so ultimately I should trust his opinion."

Q. And so he told you that he recommended the lollipop method?

A. Yes.

Q. Did he say why?

A. Yes, his focus was scarring. Even after I said that, again, scarring wasn't my main concern, it was more of the needing of a revision that I did not want.

Q. Why did you not want a revision?

A. Because I didn't want another surgery.

Q. Was that at all related to religious reasons or something else?

A. I don't think anybody would want to have more than one surgery.

Q. Okay. Was part of -- withdrawn.

Was there any religious component in terms of making the decision to have top surgery?

A. I kind of wrestled with it a little bit. But I was never particularly, like, religious myself, so it was never a super strongly held belief, but, like

I understood, like, my mom's beliefs, and grandfather and everything, and so, like, ultimately I felt like, if I was going to do it, I should just get it done, but I did not want to, like, do it again. That's it.

Q. Do you recall how long your visits were with Dr. Chin?

A. A half an hour or so.

Q. Do you recall other discussions with Dr. Chin at pre-operative visits besides what you have testified to already?

A. No.

Q. Were you aware that you needed to undergo general anesthesia for this procedure?

A. Yes.

Q. Were you aware that there was a risk you might not wake up from general anesthesia?

A. Yeah, yeah.

Q. When did you schedule this surgery?

A. Approximately for December 4, and then it was pushed back to the 16th.

Q. So when you had started at Workspace?

A. Mm-hmm.

Q. Had you already scheduled the top surgery?

A. I don't believe so.
Q. Shortly after Workspace the surgery was scheduled?
A. Yes.
Q. Why was it pushed back to the 16th?
A. It had something to do with the location it was done in.
Q. Where was it to be performed?
A. I don't remember, but it was, like, I don't remember. I don't remember specifics. So it was Mount Kisco or Northern Westchester Hospital. I don't remember. I'm not sure.
Q. If I said Northern Westchester Hospital, would it refresh your recollection?
A. Yes, that's correct.
Q. Okay.
A. That's correct.
Q. Had you ever been there before?
A. I don't think so.
Q. Okay.
A. No.
Q. Okay.
A. I don't remember.
Q. Was the surgery scheduled as one day, in and

out?
A. Yes.
Q. Were you to remain hospitalized?
A. No, one day.
Q. Okay.
A. Ambulatory. Whatever you call it.
Q. When the surgery was postponed did you talk about that to Dr. Einhorn?
A. I don't remember.
Q. How did that postponement make you feel?
A. Frustrated from anxiety and wanting it to be over already.
Q. Do you recall around this time Dr. Einhorn bringing up potential medication for you?
A. I don't remember.
Q. For depression or anxiety or anything, at all?
A. I don't remember.
Q. Was surgery performed December 16th?
A. Yes.
Q. Did you see Dr. Chin that day?
A. Mm-hmm.
Q. Yes?
A. Yes.
Q. Prior to surgery?

A. Yes.
Q. Do you recall any conversations that you had with Dr. Chin preoperatively?
A. Not really just him, kind of, just, like, you know, um.... marking me, and things of that nature. I was anxious from the marks he made, again, not saying anything, because I just thought that he knew best.
Q. Your mom was there at that time?
A. Yes.
Q. Your mother agreed to let you have this surgery?
A. Yes.
Q. Your mother signed consent forms for the surgery?
A. Yeah.
Q. Because you were under 18?
A. Yes, because I was under 18.
Q. Did you see any consent forms that your mother signed for this surgery ?
A. I think so. I don't remember what they said or anything.
Q. Would you have read them for your own information ?

A. I think so, but I don't remember specifics of them, at all.

MS. KATZ: I will deem as marked the consent forms, and share them collectively as Defendant's Exhibit A, for identification.

(Whereupon, a document was deemed marked as Defendant's Exhibit A, for identification.)

THE WITNESS: Okay.

MS. KATZ: This will be consent forms, a collection of them from Northern Westchester Hospital.

EXAMINATION BY

MS. KATZ:

Q. Can you see the screen?

A. Yes.

Q. The first form is dated December 16, 2019, dated here. The first page, the anesthesiologist consent.

A. Okay.

Q. Do you recall seeing this form on the date of the surgery?

A. Yeah.

Q. Did you read this form?
A. Yeah, I believe so.
Q. Do you recall meeting the anesthesiologist on the date of the surgery?
A. Yes.
Q. Do you recall any conversations with him?
A. Not really. I don't think so. He would have introduced himself, and say what he would do, so nothing more. So it states breast reduction on there.
Q. Okay. Your mother signing here peers on page 2 under signature of patient or authorized representative on page 2; is that correct?
A. Mm-hmm.
Q. Yes?
A. Yep, yeah.
Q. And page 3 now, another consent form, two pages.
A. Okay.
Q. Do you recognize this form?
A. Mm-hmm.
Q. Yes?
A. Yes.
Q. Did you read this consent form?

A. Yeah.
Q. You read it before your mother signed it?
A. I don't remember that.
Q. Okay. You read it at some point before the surgery?
A. Yes.
Q. Your mother's signature is on page 4?
A. Yes.
Q. From this exhibit.
A. Yes.
Q. Going to page 6 consent patient admission, it is your mother's signature?
A. Mm-hmm.
Q. Yes?
A. Yes.
Q. Page 7, consent to admission and treatment. Your mother signed as guardian?
A. Yeah.

MS. RUOCCO: Off the record.

(Whereupon, an off the record discussion was held.)

(Whereupon, a short break was taken.)

(2:37 - 2:40 p.m.)

F. Varian

MS. RUOCCO: This is all Defendant's Exhibit A, for identification.

MS. KATZ: Yes.

MS. RUOCCO: Defendant's Exhibit A, page three of 7 consent to operate you authorized Dr. Simon Chin?

THE WITNESS: Mm-hmm.

MS. RUOCCO: Yes?

THE WITNESS: Yes.

MS. RUOCCO: So is that the document that you had seen prior to undergoing your top surgery December 16th?

THE WITNESS: Yes, I suppose.

MS. RUOCCO: Okay. Thank you. That's it for now.

MS. KATZ: Okay.

EXAMINATION BY

MS. KATZ:

Q. Now, you were asleep for the surgery; is that correct?

A. Yes.

Q. Do you recall anything about what happened

during the surgery?

A. I don't think so.

Q. After the surgery, when you woke up from anesthesia, were you still in the hospital?

A. Yes.

Q. Do you have a conversation with Dr. Chin after you woke up from the surgery?

A. No, I didn't see him after the surgery.

Q. When was the first time that you saw Dr. Chin after the surgery?

A. Four days later, after drains were taken out at that time.

Q. Do you recall that visit?

A. Yeah.

Q. Can you tell me what happened when the drains were taken out?

A. The bandages came off before the drains were out. I was very swollen. So only, like, four days later, there was bruising and a lot of swelling and just thought, okay, that's kind of what happens after surgery.

Q. Now, at some point, did Dr. Chin tell you how the surgery went?

A. I think he said that it went well. Nothing

went wrong, certainly, in terms of, like, I don't know, like, I didn't wake up half way through like you hear those horror stories, or anything, like, so no, so nothing like that, no, so, you know, I don't remember any specifics.

Q. Your mother was with you for that visit?

A. Mm-hmm.

Q. Yes.

A. Yes?

MS. KATZ: Off the record.

(Whereupon, an off the record discussion was held.)

EXAMINATION BY

MS. KATZ:

Q. Okay. Did you follow up with Dr. Chin after the surgery?

A. No, because it was Christmastime, and he went on vacation. And I do believe that -- I'm sorry -- I am trying to remember. I think I went to where he referred me to somebody. Since I told him that I was black and blue and there was swelling, and I was anxious about that, and it wasn't anything major, I guess so, um.... yeah.

Q. Okay. So you went and saw another doctor?

A. Yes.
Q. A plastic surgeon?
A. Yes.
Q. In Cos Cob?
A. Connecticut.
Q. What did this doctor say?
A. That it was nothing, and, you know so keep an eye on it, and that it wasn't, you know, anything, like, it wasn't infected.
Q. Okay. And after that, did you follow up with Dr. Chin?
A. Yes.
Q. Okay.
A. I don't remember when.
Q. Okay. After your top surgery in December of 2019, did you return or resume treatment with Dr. Einhorn?
A. Yes.
Q. Did you talk to him about the surgery and how you felt after that?
A. I would say, yes.
Q. And then after the course of -- withdrawn.
Were you still in Workspace in 2020 at that time?

A. Yes. I went back and resumed education and social life, and I did not to perform in that play or musical, rather.

Q. You went to Work Space from January of 2020 to the end of that semester?

A. No.

Q. No?

A. No, March.

Q. It was the COVID-19 pandemic?

A. Yes.

Q. Okay.

A. It was all shut down.

Q. And as far as Workspace, in March of 2020, what happened there?

A. It shut down with no classes. And everything was Zoom. And I kind of, like, I don't know. I think I just kind of, like, tanked and I didn't want to be seen or do anything, at all, even though I had been doing well, very well up to then working on making a movie and stuff, like, and people, like, there were people, like, really -- it was, like people, at some point fell away, I guess, and I got depressed, kind of. I didn't see Dr. Einhorn. So I reached out. In April. He never responded. So I

asked for another session again in May. And then I restarted in the middle of May.

Q. Did you not see Dr. Einhorn for a while, because of COVID-19?

A. In part and it was wait and see.

Q. Wait and see what happened with the COVID-19 pandemic?

A. Yes.

Q. Okay.

A. And when it became clear that it was a major issue and things were going to be this way for a while, I reached out to him. He never responded. And then I reached out again early May. I then got an appointment on my birthday.

Q. May of 2020?

A. Yes.

Q. By Zoom?

A. Phone sessions.

Q. For how long did you do that?

A. Until I stopped.

Q. When exactly?

A. December of 2021.

Q. December?

A. Yes.

Q. You never returned to Dr. Einhorn?

A. Yes.

Q. It was the phone visits entirely?

A. Yes.

Q. Any video telehealth with him?

A. No.

Q. Now, when Workspace shut down March of 2020, did it go virtual?

A. Yes, and I tanked mostly. And I wasn't, like, super -- I -- so I tend to process things very slowly, so I kind of, like, I don't know -- I just, thought, like, 'oh, everything will be normal in two weeks and that wasn't true, obviously. So I reached out to Dr. Einhorn the first time and yeah, so I didn't really attend many virtual classes for the rest of that year.

Q. When you reached to Dr. Einhorn to book a session in May of 2020, at that time, did you discuss with him how your top surgery had gone, at all?

A. I guess.

Q. Do you remember how you were healing from the surgery by May of 2020 or feeling about it at that time?

A. I was very much in denial about, like, I was, like, 'Oh, swelling can last several months. It will go down. It won't, like, be this bad in a month or two, and things will change.' And so I was trying to remain positive and really trying to hold on to it, but it, um.... only the swelling did not go away, and so I remember, I tried to, like, maintain this positivity about it.

Q. Did you ever tell Dr. Einhorn you were happy with the top surgery?

A. I think I said that overall that I was happy with it.

Q. Why did you tell him that?

A. Because I did not have the binder anymore and I felt like I had just done something for help, and my life will get better, and I did something to help, help myself.

Q. In your postoperative visit with Dr. Chin prior to COVID, did you make complaints to him?

A. I believe one thing was a scar, that was, like, really, like, the stitches opened there or something. But it was nothing, anything like wound dehiscence, and there was no reopening. I don't know. There was a little thing that left me with a

very large, like, between a dime and quarter sized round scar at the bottom of my right side. I think that was he only thing that, um.... what really, like um.... was brought up.

Q. Did you talk to Dr. Chin about your complaints about swelling?

A. Yes, and he said keep wearing the compression shirt, which -- so, like, in a lot of top surgery practices, they give you a post-surgical binder, similar to the binder, for post surgery, to keep swelling down, to make sure everything will heal. I was not given one. I was told to go get a sports shirt, compression shirt, and I did that, and wore it until, like, March or longer. And it was hot to wear at that time. So, yeah.

Q. Did you continue seeing Dr. Chin in person after the pandemic hit?

A. Yeah.

Q. Okay. And were there any conversations after the pandemic about your surgical results with Dr. Chin?

A. Not really. I kind of realized, like, I didn't realize at the time, really, that, like, I don't feel he was listening, at all.

Because had he listened, and had he really, like, put any thought into what I was saying, he might have realized that, like, 'Hey this kid is talking about, you know, how she does not think that the lollipop method will work."

And I gave him my reasons. And that gave him no pause. And I ended up being at least partly right. And so I didn't feel I wanted to go back to somebody who did not listen to me.

So finally, I got the point where I was, you know, in pain, and I really, really was miserable, I chose to if we a revision with something else.

Q. Did you ever talk about revision surgery with Dr. Chin?

A. I don't think so.

Q. Now, ultimately you underwent a revision surgery; is that correct?

A. Correct.

Q. When was that?

A. January of 2021.

Q. Where was it done?

A. Bridgeport, Connecticut.

Q. By the way, the surgery from Dr. Chin was covered by insurance?

A. Yes.
Q. Was the revision surgery was covered by insurance?
A. No.
Q. Who paid for it?
A. My mother.
Q. Do you know how much it cost?
A. About six thousand dollars.
Q. Who performed it?
A. Dr. Chandler.
Q. Now, when you started seeing Dr. Einhorn by phone in May of 2020 approximately, up to the revision surgery of January of 2021, did you talk to Dr. Einhorn about how you felt about the results of that surgery?
A. Yeah, I did at some point.
Q. Did you tell him you were unhappy, and the specifics of that?
A. Yes, about the extra tissue and extra skin, and I was uncomfortable, and it was painful. I don't remember what his exact response was.
Q. At the time that prior to your revision surgery -- withdrawn.
Now, did you enroll in the school in fall of

2020?

A. I tried Workspace by Zoom. I tried that, and some odd classes here and there that I attended so, yeah.

MS. KATZ: Off the record.

(Whereupon, a conversation was held off the record.)

EXAMINATION BY

MS. KATZ:

Q. Did you go back to Workspace 2020?

A. Just Zoom.

Q. And in the summer into fall of 2020, did you have any in person social activities?

A. Not really.

Q. You were pretty isolated?

A. Yeah, I think I went to a graduation party for a friend. With me, and a couple of, like, some family friends who were there.

Q. Okay. So in the summer and fall of 2020, your complaints about the top surgery had to do with the surgical results; is that correct?

A. Yep. That's correct.

Q. At that time is it fair to say that you did not regret your decision to have the top surgery,

separate from the surgical outcome, meaning, at that time you still wanted to have your breasts removed; is that correct?

A. Yeah. I remember -- I don't know if I voiced it, but just, like, that -- I don't know how I worded it, but that, like, how like now that, like, I was kind of distant from having breasts, I wasn't like, so sure that it was necessary, but that, like, it was fine, because, like -- I was, you know happier with, like, aesthetically having a flat chest, I guess and if it had turned out right, I would have been, like, more, like, happy with it.

Q. In the fall of 2020, were you still identifying as they/them?

A. Um.... yeah.

Q. Now, did there ever come some point in time, where you stopped identifying as they/them?

A. Yeah.

Q. When was that?

A. Well, it was, like, last summer, I basically just told people area what they are called.

Q. At your last summer of 2023?

A. 2022. I was, so, like, I don't know -- I was on, like, before I was very set. Now it was, like,

whatever. It is fine. I don't really mind anything. And when people called me she, I really didn't care. So I started to think about how, like, it was such a silly thing to care about it or the way that people perceive you. It is not something that you can control. And somebody telling a teenager that they should control the way other people see them, I know -- so I just kind of, I realized that's kind of dangerous, even.

Q. So in summer of 2020, you started to tell people that you did not care what gender they referred you as?

A. Mm-hmm.

Q. Yes?

A. Correct, yes.

Q. And at some point after that, did you decide that you did not want to be identified then as they/them?

A. Yes.

Q. When was that?

A. Around last fall.

Q. 2023 or 2022?

A. Fall of 2022, I decided that was a girl and that I always was, and that I regretted having my

breasts removed.

Q. So that's the fall of 2022 you came to that conclusion?

A. Yes, 2022.

MS. KATZ: Paul, can you read back the last two questions and answers, please.

(Whereupon, the testimony was read back by the stenographer.)

EXAMINATION BY

MS. KATZ:

Q. And you continued to treat with Dr. Einhorn until December of 2021; is that correct?

A. Yeah.

Q. As of the time you last treated with Dr. Einhorn you still had identified then as they/them?

A. Yes.

Q. Regarding the revision surgery of January of 2021, did you ever have any conversations with Dr. Chandler preoperatively about what you wanted done?

A. Yes, two consults with her, at least.

Q. What did you tell her of your complaints?

A. I said that the deep tissue was very uneven. I didn't like it. There was far more tissue on the left side than right. Right was concave, and had skin overhanging and actually really painful, and it was rather numb, and you could feel skin on the skin contact like your own skin. Not a good sensation. And I explained I wanted that to be mitigated. So, yeah. And she explained to me that, I guess, they were going to do like the double incisions scars, and I was okay with that.

Q. How did you come to find Dr. Chandler?

A. I researched it. People that were closer to me. And she is kin Darien, Connecticut, so easier to drive than New York City, and again, I did not -- I was now very impatient to fix the issue. So I was in physical pain, as well now. And it was now very uncomfortable.

Q. Other than the surgical results you were not happy with, did you tell Dr. Chandler you regretted having the mastectomy?

A. No. I did not.

Q. Okay. And did Dr. Chandler render any opinions about Dr. Chin?

A. Well, not anything about him specifically, but

when I called and explained that I was, I guess, 17 or 18, her office immediately turned me away. I said I was a minor. And I they did ask her if she was comfortable with that. I guess she was, because she was to help me.

Q. Was there anything else Dr. Chandler said about Dr. Chin?

A. She said that she could see why I was not happy with it, she told me.

Q. Anything else?

A. No, nothing specifically.

Q. How was your -- withdrawn.

Approximately how long were you admitted to the hospital for this revision?

A. Ambulatory, overnight.

Q. The same day?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. Did you have any complaints postoperatively after the revision?

A. Other than regretting what was done in the first place, no.

Q. You did not have regrets for another year after

that ; is that correct?

A. Yeah, just about.

Q. Approximately?

A. Yeah, just about.

Q. Did you have any complaints about Dr. Chandler's surgery itself?

A. Well, it is not a hundred percent, um.... there is still skin that folds over and is painful. I can't eve tell you if the nerves are completely dead now. Although, I sometimes experience pain and discomfort, like, I am acutely aware of my pain, and with the folding over, I can't even describe that pain sensation adequately. So it is still very uneven, but I do believe that Dr. Chandler tried her best to fix what was already there.

Q. Okay. I am going out order a lot. I apologize for that. When you went back to Workspace by Zoom, the fall of 2020, after that, did you continue going to Workspace through fall of 2020, and then went spring of 2021?

A. Yes, I finished the classes.

Q. After revision surgery you still continued to go to Workspace?

A. Yes.

Q. And in the spring of 2021, was Workspace still virtual at that time?

A. Yes.

Q. What grade were you in when you completed the spring of 2021 semester at Workspace?

A. High school senior.

Q. And 2021 was the last time that you were in school; is that correct?

A. Yes.

Q. So what did you do in the summer of 2021?

A. I took GED prep classes or course at that time. So, yeah. And I never actually went through and got the GED. I just -- I had trouble, I guess, I don't know, like, academically I have trouble. And so I was struggling a lot with math.

Q. And had you completed Workspace in spring of 2021?

A. (No verbal response.)

Q. Was that like where you graduated, or how does it work?

A. It a home school group, and not a school. It is a group of people doing home schooling, and outside teachers are there to teach subjects like art or history. Whatever. So I don't know.

There is no diploma or anything from them, just like, you know, classes or whatever. I don't know. I don't know. You do stuff for education. And so, like, enriching your education for home school is their program.

Q. Why did you not continue?

A. It was kind of for school age Chin, so I never felt comfortable.

Q. So than in the fall of 2021 what did you do at that time?

A. I don't remember.

Q. Now Fox, do you recall in about November of 2021 that Dr. Einhorn referred you for a psychiatric evaluation?

A. Yes.

Q. And, do you recall, did something happen that prompted this referral to a psychiatrist in November of 2021?

A. I had a lot of home difficulties and a lot of issues with my family. So things were kind of getting worse as the year went along. My grandfather was involved in that. He did not want us to fight.

Q. Do you remember the name of the psychiatrist

who evaluated you back in November of 2021?

A. Darcy Leone.

Q. Where did you meet with her?

A. Telehealth by Zoom.

Q. How many times?

A. Maybe three times.

Q. Do you recall what you discussed?

A. The relationships in the home and stuff. And it was a lot. It was now very turbulent, and stuff like that. I remember she diagnosed me with Borderline Personality Disorder. And had told that to Dr. Einhorn. I read symptoms, of its symptoms, so instability and loss of sense of self, instability of emotion, and other symptoms and signs of the disorder. So at that point in my life I was just very rapidly cycling around all different emotions, I guess, which ended up then with him giving me this referral.

Q. Because you told Dr. Einhorn you had Borderline Personality Disorder?

A. No, no. That was not why. It was the rapid cycle of the emotional rollercoaster. So I explained to him earlier in therapy, so summer, but before August, I said, I think I had Borderline

Personality Disorder. Another symptom was, so, like where I take rejection really, really hard, where it feels soul crushing, even if it was not, it all felt really insurmountable.

Q. That was summer of 2021?

A. Yes.

MR. FIEDLER: Off the record

(Whereupon, an off the record discussion was held.)

EXAMINATION BY

MS. KATZ:

Q. November of 2021, this rapid cycling of emotions led to Dr. Einhorn making his referral to Dr. Leone?

A. And the turbulent home relationships.

Q. Did Dr. Leone prescribe medication?

A. Lexapro.

Q. Did you try it?

A. Yes, I decided to try to something at that time.

Q. November of 2021 was the first time you had ever tried an antidepressant or antianxiolytic for depression and anxiety; is that correct?

A. Correct.

F. Varian

Q. Now, what was it in November of 2021, that finally led you to take these psychiatric medications?

A. I just felt like I -- I know I had tried to get better, and I did some things to get better, and, you know, I was now formally diagnosed with having Borderline Personality Disorder. And I had suspected that myself earlier, that I had it. So now I decided it was time to try something that I had not tried before.

Q. What happened when you tried Lexapro?

A. Oh, sorry. I remember something. I started cutting.

Q. When did that start?

A. November, approximately.

Q. 2021?

A. Mm-hmm.

Q. Yes?

A. Yes.

Q. What happened when you tried the Lexapro?

A. I was on it four days, and I was increasingly worse. With my heart beating out of the chest. I felt sick. I felt weird. And like totally, like, like, I don't even know. I can't seem to describe

it well, but I kind of felt like I was, like, operating like a robot. And then I -- so I stopped taking it.

MR. FIEDLER: Off the record.

(Whereupon a discussion was held off the record.)

EXAMINATION BY

MS. KATZ:

Q. So you stopped taking the Lexapro after four days of taking it, total?

A. Yes.

Q. Did you try any other medication, at all, thereafter?

A. No.

Q. Did you tell Dr. Leone of your experience with Lexapro?

A. Yes.

Q. What did she say?

A. She said it was fine, because she knew I was hesitant, basically, and said, like, um.... you know, you can try something else. You don't have to, like, you can just, you know, like, take time and decide what you want to do, and it is totally up to you.

Q. Did she recommend any other treatment other than medication at that time?

A. No.

Q. Do you recall -- withdrawn.

At the time that you met with Dr. Leone do you recall telling her that you identified as male?

A. Um.... I probably did say that.Um.... and I know I said that, because of the -- I didn't like thinking about it. I was just like, kind of, like, whatever. Like, I have been -- I don't know, I guess I thought the I was happier identifying that way.

Q. At the time, as of November of 2021 were you identifying as a male?

A. As nonbinary so, like, I feel like I probably told her that, and told her I was using now he/him and they/them also, and also that I didn't mind which was said by people, so if they decided that I male, fine, I think so, yeah.

Q. Okay. Did you tell Dr. Leone you had tried to come out as transgender at the age of 13, and that you felt your therapist ignored it?

A. Okay. I told Christy Gotto and mentioned to her that I was, like, I may be gender fluid, like, I

was -- sometimes felt like a boy, and sometimes felt like a girl. And I was probably like 12 or 13 when I told her that. And she was like, that's fine, and did not ask me questions it, and so I just let it slide, and I didn't really think about it for a couple of more years.

Q. After the referral to Dr. Leone did you have any further sessions with Dr. Einhorn?

A. Yes.

Q. What was that?

A. For about two weeks I did not feel great. I felt pretty bad. I was still cutting at that time and trying to get past that urge. And I remember -- I recall the last conversation with him was about my mom, who thought it was maybe time for another therapist, so for somebody else that maybe could help me and um.... so, and that there was this guy that a friend of mine had seen that I was -- she felt like he was qualified and trying to get a session with him. It was a long list. So at least one month. And I said hold on, wait, I am really doing badly here. I cannot now wait for this guy for, like, a month or more. So it can be two months of a wait list in New York City, and it is a long

time. So he was, like, 'well I have to take a vacation, too." And I just kind of was like okay and that was the last time that I ever spoke to him after that.

Q. Anything else about that conversation that we have not discussed besides what you have testified to already?

A. No, not that I recall.

Q. This was about Christmas time?

A. Yes, mid-December.

Q. Prior to that last conversation had you prior conversations with Dr. Einhorn about ending treatment with him?

A. I think he mentioned it to me maybe months prior. I don't know.

Q. Okay. During the prior conversations with Dr. Einhorn you mentioned, and a new therapist, what did he say?

A. "It's up to you. So it is your healthcare. It is your choice. It's fine. Go. I am fine with you now continuing with me or with you seeing someone else.

Q. He told you it was fine with him to continue treatment with him?

A. Yes.
Q. He never stated to you that you could not see him; is that correct?
A. No.
Q. Correct?
A. Correct.
Q. In fact you texted him in a month?
A. Yes.
Q. And that was to let him know how this new, other therapy was going?
A. Yes.
Q. Christmastime?
A. Yes.
Q. Did you ever text message him after the Christmas holidays?
A. No.
Q. Why not?
A. Because I didn't like that content of that last conversation. It was very cavalier. And I was self harming. And I felt horrible. And he is saying to me, "I need a vacation, too." So it was like, okay you know, I got in with that therapist relatively quickly, so, you know so, yeah.
Q. Who was the other therapist?

A. Kevin O'Donahue for two months, and stopped after.

Q. And then why did you stop treating with Dr. O'Donahue?

A. I found him frustrating. There was a large birthday party for my grandfather held in my pretty small house and for his 80th birthday at my house, it was a small house, and there was going to be a lot of people, and I mentioned that -- that I had social anxiety. So there was not, like, ideal for me and my brain, and I was just kind of, like, anxious about it. I had all this anxiety about it. And that I'll get too overstimulated, and I don't want to, like, ruin the party by being, like, really on edge and like and/or like shutting down or whatever, and so, um.... he looked at me and he said:

"Well, control your sensitivity, and we will talk next time."

That really pissed me off. And I did not think that this was a therapeutic way to handle that. So that was one. And there were other things that told me it was not going to -- being not a good fit here and I stopped treatment.

Q. Who did you treat with next?
A. Melissa Marino.
Q. She is currently your therapist now?
A. Yes.
Q. And I apologize if I asked this already, but where is she located?
A. I don't know. It is Zoom.
Q. You never saw her in person?
A. No.
Q. She is a psychologist?
A. I think so.
Q. Other than that last conversation with Dr. Einhorn where he told you that he needed to take a vacation, too, separate from that statement, was there any other reason that you felt like you did not want to treat any longer with Dr. Einhorn?
A. Um.... treat me or I didn't want to treat with him?
Q. Why you did not want to treat with him?
A. Um.... I don't know. It just clearly -- it was not working. And so I just took it as that, like, he doesn't like -- he would rather not treat me, obviously, and, um.... it struck me as kind of -- of really careless to say that, especially in the tone

of voice he used, and worded that way, to somebody really struggling. And so I -- I did not want to really, like, go there.

Q. Separate from that statement, was there anything else about the course of your treatment with him, anything that he said or did, separate from this vacation statement, that made you think you did not want to treat with him anymore?

A. Okay. Well, the whole time he was dismissing my concerns about having Borderline Personality Disorder. So I had all of those symptoms, and I feel like I fit the diagnostic criteria, and really was struggling now with this, and I believe his response was:

"You wouldn't take medication for that, anyway."

And again, he was just very dismissive.

Q. Anything else?

MR. FIEDLER: Keep going. Give her all the reasons.

THE WITNESS: Like I said, the dismissiveness bothered me. And I tried to kind of push down the idea that was obviously not a good course of action.

F. Varian

So, again, this was his cavalier attitude for my treatment towards me, and my treatment, I was not really aware at somepoint, where I did not really notice that theme before that.

And then the vacation comment, so he needed a vacation, tied everything together where he was so dismissive and kind of careless. And so, like, this sort of the dismissive attitude almost at times was what bothered me.

MR. FIEDLER: Off the record.

(Whereupon, an off the record discussion was held.)

MS. RUOCCO: Let's take a bathroom break.

(Whereupon, an off the record discussion was held.)

(Whereupon, a short break was taken.)

(3:38 - 3:45 p.m.)

Okay. Well.

EXAMINATION BY

MS. KATZ:

Q. Did Drs. O'Donahue or Marino every express to you any criticisms of Dr. Einhorn?

A. Um.... Well, when I began detransitioning and expressing regrets to Melissa Marino, she concurred with me that it was done far too quickly, and that there should have been more time between me, like, coming out, and transitioning and getting surgery. And um.... So, yeah, that was -- if you want to call that criticism, then yeah.

Q. When you say you began detransitioning, when was that?

A. December or January. So last winter approximately. And the reason I felt so bad was I realized that I couldn't seem to, like, get better is because I lost a part of my body that, you know, I want a, you know, complete body and, um.... and yeah, so, yeah.

Q. Last winter, meaning December of 2022 and in January of 2023; is that correct?

A. Correct.

Q. When you say you were detransitioning at that time, what did that entail? What did it entail for you?

A. Reverting back to she/her female pronouns and

not identifying with a transgender identity in any way. And really I would say that, because I publicly started to say, like, I made a mistake and, you know, I deeply regret what happened, and what was done. And I started to have those feelings a lot before that. And I was scared to express regret. I know it was really hard for my mother. And I knew that I felt like if I said it out loud, it would make it real that, but that not saying it out loud, was still just as real, like, it was kind of a secret, and that is worse.

Q. So you started feeling this deep regret a few months before December of 2022; is that correct?

A. Yeah.

Q. Are you planning on keeping your name as Fox or changing it to something else now?

A. It is very subjective now. I never really liked Isabella. I don't like Bella, either. So I kind of made an identity and sense of self with this name. I do resent that it is masculine, and is kind of associated with being, like, trans in some way. So, I don't like that part of it. I have -- I decided I don't want to rush into anymore major decisions.

Q. Did you have social media accounts?
A. Yes. I don't really use them.
Q. Which ones do you have?
A. Instagram and Tumbler.
Q. Tumbler?
A. Yes.
Q. Do you have Facebook?
A. No.
Q. Snap Chat?
A. No.
Q. Threads?
A. I'm not sure.
Q. What is your Instagram name?
A. The account?
Q. Yes.
A. I'm not sure. I know it -- so, yeah, so, no, I have no idea of it right now. I apologize.
Q. When did you last go on it?
A. It was a couple of months ago.
Q. We'll leave a blank in the transcript for you to fill that Instagram ID in:

_____

A. Okay.
Q. So we will request your Instagram name.

A. Okay.

Q. Your profile name.

A. Okay.

Q. Have you ever posted anything about being trans or detransitioning on any social media sites whatsoever?

A. No.

Q. Have you put any thought into or have any intention on researching implants?

A. Yes. I did research it. I definitely don't want silicone. I know people personally who got very, very sick from silicone.

I looked at reconstruction and it is very expensive. Extremely, extremely expensive. And also I don't trust the results. I really I don't believe -- I don't trust doctors very much.

Q. Have you ever trusted doctors?

A. I mean, yeah. I trusted Dr. Einhorn and I trust Dr. Chin.

Q. Have you spoken to any doctors for consultations, at all, for implants or just online research?

A. Just research online. I never made any calls. So I don't want plastic in my chest.

Q. So no consultations.

A. Correct.

MS. KATZ: Okay. Your attorney has provided us with some photographs, and I will put them up and identify them now. Okay. I will call this Defendant's Exhibit B, for identification, a two-page document and it peers to be two photographs.

(Whereupon a document was deemed marked as Defendant's Exhibit B, for identification.)

MS. KATZ: This was served from Plaintiff's Counsel. Look at page 1.

THE WITNESS: Okay.

EXAMINATION BY

MS. KATZ:

Q. Do you recognize this photograph?

A. Yes, the right side of my chest.

Q. When was this taken?

A. From July.

Q. And the year?

A. This year.

Q. After reconstruction?

A. Revision.
Q. Sorry. The revision?
A. Yes.
Q. Who took the photograph?
A. I did.
Q. On your cell phone?
A. Yes.
Q. In selfie mode?
A. Yes.
Q. Page 2, what is that?
A. Left side of my chest.
Q. When was that taken?
A. July of this year.
Q. 2023.
A. Yes.
Q. You took the photograph with the cell phone?
A. Yes.
Q. Do you have photographs of your chest prior to the revision surgery?
A. Not with me. I believe my layers have them.
MS. KATZ: Hello? Duane? Duane? Did you exchange them? Because I don't have them.
MR. FIEDLER: I don't know.

F. Varian

MS. KATZ: You don't have other photographs?

MR. FIEDLER: I have no idea if Adam gave you everything. I would have to check with him.

MS. RUOCCO: Well, I can send you one.

(Whereupon, an off the record discussion was held.)

(Whereupon, a short break was taken.)

(3:57 to 3:59 p.m.)

MS. KATZ: This will be called Defendant's Exhibit C, for identification, one page just sent to me by Ms. Ruocco. With two photographs.

(Whereupon a document was deemed marked as Defendant's Exhibit C, for identification.)

THE WITNESS: Okay.

EXAMINATION BY

MS. KATZ:

Q. Do you know what this is?

A. Yes.

Q. What is it a photograph of?

A. My chest after the initial surgery.

Q. And a line and circle here. What part of the body is that?

A. My chest.

Q. And the black space on the right side, well -- is that background?

A. Not a body part, but the background.

Q. What is to the right of that black area?

A. I am holding the phone like this, and, like, taking the photograph, so underneath my arm holding the camera and down.

Q. Horizontally?

A. Yes.

Q. Describe it for me.

A. The photograph is turned.

Q. Should I rotate it?

A. Yes.

Q. Like this?

A. No, upside down.

Q. Let me try again.

A. Okay.

Q. Okay. Now, I understand this is not the right view, correct?

A. Yes, correct.

Q. So looking at it the correct way now on the screen this is after the first surgery; is that correct?

A. Yes.

Q. Okay. This is the right side and left side of your chest; is that correct?

A. Yeah.

Q. Are they two photographs?

A. Same. I don't know about this line or what it is. The resolution is decreased here. So that is part of uploading photographs or something.

Q. You took this photograph; is that correct?

A. Yes.

Q. When did you take it?

A. Five months after the surgery.

Q. Do you have the original on your phone?

A. Not this phone, but somewhere I must have it, I'm sure.

Q. And is it with better resolution and without this line?

A. Maybe. I don't know where the phone is. It is old and broken. I have it. But I don't know where that phone is anymore.

F. Varian

MS. KATZ: If you have a copy of that photograph I will ask you provide it to your attorneys.

THE WITNESS: Okay.

EXAMINATION BY

MS. KATZ:

Q. Do you have any other photographs other than that one after the first surgery?

A. Adam my attorney has them all. They would all be part of the surgical procedure prior to her revision, and was multiple angles, and it was better quality than this.

Q. Any others?

A. No.

Q. Now back to social media accounts. Do you have Tik Tok?

A. No.

Q. Do you have a You Tube channel?

A. No.

Q. No?

A. No.

Q. Now, when you underwent surgery by Dr. Chin, did you fill any prescriptions for antibiotics before or after surgery?

A. Yes.

Q. Where did you fill it?

A. I don't remember.

Q. Did your mother pick it up?

A. Yes.

Q. You never had an infection after the Dr. Chin surgery?

A. No.

MS. KATZ: Okay. I will pass it now to Valerie. We will reserve our rights to depose the Plaintiff. There is much outstanding discovery, which has been demanded in writing and verbally. We never were provided with subsequent and prior psych records as demanded. So we still do not have that. We never got authorizations, either. So I reserve my rights now for all records for all providers, doctors, surgeons, and facilities, including but not limited to the revision surgery, and we'll reserve our rights to a further deposition.

MS. RUOCCO: I will join in that. Off the record.

F. Varian

(Whereupon, an off the record discussion was held.)

(Whereupon, a short break was taken.)

(4:06 - 4:08 p.m.)

EXAMINATION BY

MS. RUOCCO:

Q. Good afternoon. My name is Valerie Ruocco from Martin Clearwater and Bell. I represent Dr. Chin and Caremount Medical I will continue with questions. Same instructions will apply.

Prior to the use of the binder, what was your breast size?

A. I don't know maybe a B with sports bras some years before that.

MR. FIEDLER: Great question.

EXAMINATION BY

MS. KATZ:

Q. For what period of time did you wear a sports bra?

A. Like two.

Q. Were you ever measured for a bra prior to wearing sports bras?

A. Measured?

F. Varian

MR. FIEDLER: Maybe she will limit more damages if you have a different bra size, so it is better off for her if you take a smaller bra, and it is very relevant to her.

THE WITNESS: Okay. I mean, I don't remember the exact measurements so about a B cup or maybe a little bit bigger.

MR. FIEDLER: So -- and what does it have to do with breast size Valerie, really?

MS. RUOCCO: Listen, it is in the medical records, so now I am asking her, and you know I have every right to ask these questions.

MR. FIEDLER: So even more reason not to ask it.

EXAMINATION BY

MS. RUOCCO:

Q. Do you know if your breast size changed at any time from when you started wearing a binder at all up to the time that you saw Dr. Chin for the first time?

A. I have no idea.
Q. Was your mother present at all of the pre-operative procedure visits with Dr. Chin?
A. Yes.
Q. Was any other family member or friend present for any pre-operative procedure visit?
A. No.
Q. And when did you first do research on top surgery?
A. Winter probably 2019 to spring I looked at the stuff about how it is done.
Q. What did you look at to determine how it is done?
A. Medical websites.
Q. Do you recall the names of any of those medical websites?
A. No.
Q. Did you save or bookmark of any of the websites that you went to do your research then on top surgery?
A. No.
Q. When was the first visit with Dr. Chin?
A. Mid-October.
Q. Was your mother was present for the entirety of

your visit with Dr. Chin?

A. Yeah.

Q. Was anybody from Dr. Chin's office present at the visit apart from Dr. Chin?

A. No, I don't remember anybody.

Q. When you discussed with Dr. Chin the choice of procedures, did you have a discussion with him about maintaining the viability of your nipples?

A. Yes, it was discussed somewhat.

Q. And can you tell me what Dr. Chin said about that?

A. Just there was a risk of surgery where the nipple could die and be necrotic and fall off. And maintaining blood flow is important for it to remain healthy, I guess.

Q. When you say this surgery, are you referring to top surgery in general?

A. Any form of top surgery, yeah.

Q. Did Dr. Chin discuss with you which method of performing top surgery was better for preserving sensation and health of the nipples?

A. I don't remember.

Q. Did Dr. Chin mention what portion of the patients require a second stage for top surgery?

A. No, no percentage.

Q. During discussions with Dr. Chin about you expecting that you did not want revision surgery did he indicate to you whether other things could be done apart from revision surgery?

A. I don't believe so. He said some revisions are easier and certain ones do not require different forms of anesthesia.

Q. Does Dr. Chin discuss with you that there could be tissue left after the top surgery?

A. I don't remember.

Q. Is that something that you learned from your research prior to seeing Dr. Chin?

A. My understanding is that is not what the catalyst is for many revisions, but often it is doing things for scarring or hanging and sticking out and things of that nature.

Q. Prior to undergoing surgery with Dr. Chin, did you ever have a conversation with Dr. Chin outside of the presence of your mother?

A. I don't think so, no.

Q. During any of the pre-operative procedures visit with Dr. Chin, did you ever ask him any questions?

A. Yeah. I did ask questions I don't know exactly what my phrasing was. I asked about lollipop method and double incision versus in general and there was a dialogue.

Q. What do you mean there was a dialogue?

A. Back and forth where he said lollipop method surgery is the best course, and I tried to say I was unsure where I was unsure, that it was, and my reasoning for thinking that.

Q. What was your reasoning for thinking that lollipop method may not be the best course?

A. Because from my understanding, and the research I did, I thought that it wasn't like the method since as um.... like that in the -- it could be left over skin and that it might be harder to excise any excess skin, and that um.... Double incision, which is from what I had understood was the most common form which I still believe that to be true most common in top surgery there is, that was a better course of action but he seemed adamant about reducing scarring.

Q. Did you your mother ask any questions of Dr. Chin concerning this surgery?

A. Yes, but I don't remember them off the top of

my head.

Q. Do you remember anything your mother said or asked then?

A. I don't recall.

Q. Did Dr. Chin ask you some questions concerning at all when you began to feel transgender?

A. Um.... I don't believe so.

Q. Did Dr. Chin ask you any questions as to you -- where seeing any type of mental health provider?

A. He knew I did.

Q. Why do you think that?

A. Dr. Einhorn had treated a patient of his previously.

Q. At any preoperative visit did you have any questions that you felt that Dr. Chin did not respond to?

A. Well, I don't think his, um.... like reasoning for giving me the lollipop method was adequate, especially considering I have even more scarring than double incision.

Q. Now, prior to undergoing the surgery what is your understanding as to why Dr. Chin wanted the lollipop method procedure?

A. Well, I wasn't entirely sure of his reasoning

other than scarring. And again he is a surgeon and I thought that he, you know, would know better than me, because he did his years of medical school.

Q. Do you recall any conversations that he had with your mother?

A. I don't recall.

Q. Did you undergo examination by Dr. Chin prior to surgery?

A. Yes.

Q. What did that entail?

A. Looking at my breasts, and, I guess -- I know photographs were taken. Maybe for insurance company purposes. I don't know. To kind of like see size and shape.

Q. Photographs were taken?

A. Yes.

Q. What is the basis of that knowledge?

A. How do I know photographs were taken?

Q. Yes.

A. I saw him take photographs with a camera.

Q. At what visit?

A. Not the first visit. The second visit was when probably. So, yeah.

Q. Did you ever see any of the photographs that

Dr. Chin took?

A. No.

Q. Do you have any photographs of how your chest appeared prior to Dr. Chin surgery?

A. No, I don't.

Q. Prior to this surgery did you have any discussions with Dr. Chin concerning what was needed to be done postoperatively?

A. We talked about scar care and options for reducing scarring.

Q. Was that discussed preoperatively?

A. Yes.

Q. What was discussed concerning scar care and options to reduce scarring?

A. So once fully healed to massage them and silicone tape.

Q. Preoperatively was anything discussed about that?

A. I don't recall.

Q. Prior to seeing Dr. Chin during your research were you familiar with scar care?

A. I saw different things online.

Q. Prior to Dr. Chin were you familiar with the need for drains?

A. Yes.

Q. Prior to seeing Dr. Chin were you familiar with the need for a compression dressing?

A. Yeah. So like you mean a binder or just like ACE bandages with padding?

Q. As to was compression needed post-operatively?

A. No, not that part.

Q. Which part were you familiar with?

A. Tight bandages after the surgery.

Q. Did your mother ever express to Dr. Chin any type of reluctance for your top surgery?

A. I don't know if she outright said it, but I think her demeanor was relevant.

Q. What was your mother's demeanor at office visits with Dr. Chin?

A. She was just kind of, like I don't know how to describe it, just it seemed certainly wasn't excited about it is one way to put it.

Q. Did you require a medical clearance prior to undergoing the December 2019 top surgery?

A. I don't remember.

Q. Prior to undergoing December of 2019 top surgery, did you require any type of psychological clearance?

A. Other than therapy, no. Dr. Einhorn wrote a letter of recommendation.

Q. Did you discuss with Dr. Einhorn about writing a letter?

A. Yes.

Q. When did you first have that conversation with Dr. Einhorn?

A. I don't know.

Q. When did Dr. Einhorn write this letter of recommendation?

A. October of 2019.

Q. Was the letter of recommendation by Dr. Einhorn written before you saw Dr. Chin or something else?

A. I don't remember.

Q. Were you ever give that letter from Dr. Einhorn recommending to undergo top surgery?

A. I saw it, yeah.

Q. When you say you saw it, was that something that Dr. Einhorn showed you?

A. He sent it directly to Dr. Chin. I don't remember. I don't remember. I didn't hand anybody anything personally.

Q. How did you see this letter?

A. He showed it to me.

F. Varian

Q. He, meaning Dr. Einhorn?

A. Yes.

Q. Did you ever discuss the contents of that letter with Dr. Chin?

A. No.

(Whereupon, an off the record discussion was held.)

THE WITNESS: It might get loud in here at some point.

EXAMINATION BY

MS. KATZ:

Q. Did you ever discuss with Dr. Chin issues concerning bleeding?

A. I don't remember.

Q. Or asymmetry?

A. No.

Q. Prior to the surgery did you have a discussion with Dr. Chin whether or not your activities would be restricted post-operatively?

A. Yes.

Q. What was discussed?

A. That he would clear me at some point following for karate and that I should not raise my arms to high above my head, because it might like mess

something up with the stretch the scars there or something.

Q. Do you know the name Dr. Jill Brodsky.

A. Yes, but I have no idea from where.

Q. Were you referred to an endocrinologist?

A. Yes. Right, right. Jill. Right. Yeah. Jill because of school right.

Q. Did you ever actually see Dr. Brodsky?

A. Yes.

Q. Do you recall there being a problem with seeing Dr. Brodsky because you were not vaccinated?

A. That's correct.

Q. Why were you attempting to see an endocrinologist?

A. My mom wanted to find out, like, why if my hormones were out of whack, if there was like some reason I wasn't menstruating at that time so, yeah, like I was, yeah, like,so you know, I was well into my teen years.

Q. And you have never seen an OB/GYN, is that correct?

A. Right.

Q. Well, was there some reason to see an endocrinologist to ascertain why you had not gotten

your period?

A. Yes.

Q. Did you ever see this endocrinologist?

A. Yes, but I don't remember who.

Q. Do you know at what age?

A. I don't remember.

Q. Okay.

A. The hormone levels were low after doing the tests, but I don't remember who did it.

Q. On the day you went to Northern Westchester Hospital for your top surgery there, who accompanied you?

A. My mother.

Q. Earlier you testified that you had recalled Dr. Chin marking you before the surgery?

A. Yes.

Q. What do you recall about Dr. Chin marking you, if anything?

A. Just like the him marking the incision sites with a Sharpee. That's it.

Q. Did he mark the incision sites with your mother present?

A. Yeah.

Q. When Dr. Chin marked the incision sites were

you sitting or standing or something else?

A. I don't remember.

Q. Okay.

A. I don't remember.

Q. While doing this, did he say anything to your mother?

A. I don't remember.

Q. Were you ever shown the marks in the mirror at any time?

A. I don't think so.

Q. Did you ask Dr. Chin any questions on the date of surgery before it was performed?

A. I don't think so.

Q. Okay.

A. I don't think so.

Q. At the first post-operative visit, did you make complaints to Dr. Chin about your physical condition at all?

A. I don't think so.

Q. When for the first time did you see your chest without a bandage on it?

A. At the postoperative visit with Dr. Chin at that time.

Q. Okay.

A. So December 20th of 2019.

Q. Did you see just look down to the surgical results or in the mirror or something else?

A. Both.

Q. Did you have any discussions with Dr. Chin about the surgery at that time?

A. I don't remember.

Q. And when was next visit that you had with Dr. Chin?

A. I don't remember.

Q. Okay.

A. Maybe before New Year's .

Q. Would it be fair to say that you saw another plastic surgeon?

A. Yes.

Q. Between the first postoperative visit with Dr. Chin and next visit?

A. Yes.

Q. And for what reason were you seeing another plastic surgeon?

A. There was black and blue, very bloody, and swelling on there, and so I was anxious. So I wasn't in any acute sort of pain or situation, but like, so my mom is a home care nurse. She knows

about emergency room stuff. She said let's make an appointment.

Q. Where was the swelling that you were concerned about?

A. Lower left side of chest.

Q. From the time that you underwent surgery up to the time that, that photograph that was previously shown to you was taken, were any other photographs taken of your chest?

A. No.

Q. Did you have any telephone conversations with anybody at Dr. Chin's office or Dr. Chin from the time first post-operative visit up to second post-operative visit?

A. Um.... a nurse checked in on us daily at that time maybe.

Q. Do you recall the name of the plastic surgeon you saw?

A. No.

Q. In between the first postoperative visit with Dr. Chin and the second visit, did you ever go to urgent care for any reason?

A. No.

Q. At that second post-operative visit with

F. Varian

Dr. Chin, and I will represent to you occurred on January 9, 2020, did you make any complaints to Dr. Chin about how you were feeling?

A. (No verbal response.)

MR. FIEDLER: If you don't remember don't struggle.

THE WITNESS: Okay.

MR. FIEDLER: So you don't I have to remember each visit.

THE WITNESS: I don't recall any details.

EXAMINATION BY

MS. RUOCCO:

Q. Other than the compression shirt you testified to earlier, did you do anything else at all postoperatively?

A. No but I was very careful about moving around too much and not reaching for anything as per doctor's instructions, yeah. And so that's about it.

Q. Did you ever use any type of silicone scar sheets?

A. Yes.

Q. What was it?

A. Scar Away.
Q. Okay.
A. It was recommended.
Q. When was the last time that you had -- withdrawn.
When was the bandage removed from around your chest?
A. I don't remember.
Q. Were you wearing a bandage around your chest during that period of time?
A. Yes.
Q. For some period of time?
A. A few weeks or so.
Q. Okay.
A. I don't remember.
Q. Do you recall having a postoperative visit with Dr. Chin in the summer of 2020?
A. Yes.
Q. Did anybody accompany you to that visit?
A. My mom.
Q. Was your mother at each and every visit you had with Dr. Chin?
A. Yeah.
Q. Was any family member ever present?

A. No.

Q. At the postoperative visit with Dr. Chin in the summer of 2020, did you tell him overall you are really happy with the top surgery?

A. Um.... I don't remember.

Q. Do you recall if you had any complaints -- withdrawn.

Did you have or express any complaints to Dr. Chin in the summer of 2020?

A. I don't know. I think there was maybe a revision mentioned at that time, but he said that it was too soon to tell at that point. So I kind of, like, just took that at face value.

Q. Now, when you had that discussion about the revision with Dr. Chin, what were your concerns at that point?

A. That there was extra tissue and extra skin, but, like, there was too much skin where there wasn't enough, like -- I don't know. It was very uneven there.

Q. If I put up that photograph after first surgery would you demonstrate on the photograph the concerns you had?

A. I guess, yeah.

Q. Okay.

A. But I have no idea how that would work on the screen here.

MR. FIEDLER: What to want her to do now? Interpret a photograph for you? You think she can see any better than you?

EXAMINATION BY

MS. RUOCCO:

Q. Okay, fine. Where were you experiencing extra tissue?

A. There was almost nothing in the top in front of my left side. So lower left side I don't remember. I don't remember all of it and every detail of what me chest was like before that either, so I don't remember.

MR. FIEDLER: Off the record.

(Whereupon, an off the record discussion was held.)

EXAMINATION BY

MS. RUOCCO:

Q. When was the last visit with Dr. Chin?

A. I don't remember. I don't remember. So like, maybe the following September, could be. I don't

remember. Thereabouts.

Q. So it was following September of 2020; is that correct?

A. Yes.

Q. What was discussed with Dr. Chin at that office visit?

A. I don't remember.

Q. Did your mom have a discussion with Dr. Chin at that office visit?

A. I don't remember.

Q. Did you have communications with Dr. Chin via text message?

A. No.

Q. Did you ever communicate with Dr. Chin by e-mail, at all?

A. I don't think so.

Q. Did you ever communicate with Dr. Chin through the camera?

A. No.

Q. Or patient portal?

A. No.

Q. Prior to undergoing surgery, did you need a letter of recommendation from a mental healthcare provider?

A. No.
Q. Do you know why that is?
A. I assume because, like, I mean, I don't know. The breast issue was tissue.
Q. How old were you when you had surgery by Dr. Chandler?
A. 17.
Q. Do you have a family history of mental health conditions in your family?
A. Yes.
Q. What family history is that?
A. I don't know if my mother has ever been diagnosed with anxiety. Or my father. So but I know my grandfather had depression, and he was bipolar, as well and he was an alcoholic. My dad was certainly a functional alcoholic, if I can call it that. And the Court testing indicated he had high indicators of Narcissistic Personality Disorder.
Q. Okay.
A. Which I could tell you, that is probably true.
Q. Is there any other family history of any type of mental health condition?
A. Not that I remember. Not that I know of.

Q. Your grandfather is maternal?
A. Yes.
Q. The musical you performed in, when you were wearing the binder was what?
A. "Newsies".
Q. Which role did you play?
A. Ensemble member.
Q. You said that was the first musical?
A. Yes.
Q. Anything else?
A. I told you. "Avenue Q," I dropped out, because of the surgery.
Q. Were you assigned gender roles?
A. Sometimes, but for a musical, it is a lot of girls play boys, and not enough boys usually to play them.
Q. What gender roles did you play in musicals, so male or general female both; something else?
A. Generally male.
Q. In Fairfield, what role was that?
A. Female.
Q. Prior to December of 2019, did you ever have any discussions with any peers or -- withdrawn.
Prior to December of 2019 did you ever have any

peers who had undergone top surgery?

A. No.

Q. Prior to December of 2019 did you have any discussions with anybody concerning their experiences with top surgery?

A. No. Not personally.

Q. What do you mean?

A. People on social media will talk, 'Oh, I had, you know, this experience or this experience.' So things of that nature.

Q. Is that something you read about on social media and other websites?

A. Yeah.

Q. Prior to December of 2019, did you ever read about somebody who had undergone top surgery and after regretted it?

A. I heard about it, but as Dr. Einhorn stated, um.... he basically just kind of tried to quell my mother's fears, like so, saying it was a minuscule amount and just such a small percentage of the population.

Q. What percentage regretted top surgery?

A. I don't know.

MS. KATZ: Off the record.

F. Varian

(Whereupon, an off the record discussion was held,)

(Whereupon, a short break was taken.)

(5:04 - 5:12 p.m.)

MS. RUOCCO: Due to the later hour, we will reconvene and continue the deposition.

(JURAT BREAK.)

MS. KATZ: For the record, there is a lot of outstanding discovery demands Plaintiff has not complied with. We reserve all our rights for further depositions, pending compliance with all of our discovery demands.

(Whereupon, this examination was concluded at 5:15 p.m.)

* * *

I have read the foregoing the time and place noted in the above heading hereof, and I do hereby acknowledge it to be a true and correct transcript of the same record of my testimony taken at that time.

_____

FOX VARIAN

Signed and subscribed to before me on:_____, 20__

C E R T I F I C A T I O N

DECEMBER 10, 2023

I, PAUL GOLDSTEIN, a shorthand reporter and Notary Public within and for the State of New York, do hereby certify:

That the Witness(es) whose testimony is herein before set forth was duly sworn or affirmed by me, and the foregoing transcript is a true record of the testimony given by such witness(es), recorded to the best of my ability, and given any set of circumstances.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

PAUL GOLDSTEIN

I N D E X O F E X A M I N A T I O N

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MS. KATZ RETAINED THE EXHIBITS.

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